

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA  
YAVAPAI COUNTY, ARIZONA

FOR THE COUNTY OF YAVAPAI 2012 FEB -7 AM 9:22 ✓

SANDRA K. HARKMAN, CLERK  
BY: Jacqueline Harshman

STATE OF ARIZONA, )

Plaintiff, )

vs. )

JAMES ARTHUR RAY, )

Defendant. )

Case No. V1300CR201080049

Court of Appeals

Case No. 1 CA-CR 11-0895

REPORTER'S TRANSCRIPT OF PROCEEDINGS

BEFORE THE HONORABLE WARREN R. DARROW

TRIAL DAY FIFTEEN

MARCH 15, 2011

Camp Verde, Arizona

**ORIGINAL**

REPORTED BY  
MINA G. HUNT  
AZ CR NO. 50619  
CA CSR NO. 8335

1 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA  
2 FOR THE COUNTY OF YAVAPAI  
3  
4 STATE OF ARIZONA, )  
5 Plaintiff, )  
6 vs ) Case No. V1300CR201080049  
7 JAMES ARTHUR RAY, ) Court of Appeals  
8 Defendant ) Case No 1 CA-CR 11-0895  
9 )  
10  
11  
12  
13

14 REPORTER'S TRANSCRIPT OF PROCEEDINGS  
15 BEFORE THE HONORABLE WARREN R DARROW  
16 TRIAL DAY FIFTEEN  
17 MARCH 15, 2011  
18 Camp Verde, Arizona  
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24 REPORTED BY  
25 MINA G HUNT  
AZ CR NO. 50619  
CA CSR NO 8335

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1 Proceedings had before the Honorable

2 WARREN R. DARROW, Judge, taken on Tuesday,  
3 March 15, 2011, at Yavapai County Superior Court,  
4 Division Pro Tem B, 2840 North Commonwealth Drive,  
5 Camp Verde, Arizona, before Mina G. Hunt, Certified  
6 Reporter within and for the State of Arizona.  
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## PROCEEDINGS

(Proceedings continued outside presence of jury.)

THE COURT: We're on the record in State versus James Arthur Ray. Mr. Ray is present with his attorney, Mr. Li. The state's represented by Ms. Polk and Mr. Hughes. And there is a request for some legal argument this morning.

I really would like to confine it to what would be necessary for today primarily. But I understand there are other things to look at as well. So when we actually get to the argument portion, I'm suggesting perhaps ten minutes for each side to present your position on the legal issues.

I did want to mention that I have become aware of a case. It's Noyes versus Kelly Services, Inc. Noyes is N-o-y-e-s. It has just a Westlaw number, 2008 Westlaw, 782846, out of the Eastern District of California. It's not recorded in federal supplement.

And I've read part of that case and stopped. It actually involves Mr. Ross. And I did not want to read further. There may be issues of that nature that come up in this matter. And I

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want the parties to know first that I'm aware of that case if, in fact, I decide to proceed with it. But it is in the Westlaw system with that cite.

What needs to be addressed for today, anticipated witnesses for today?

MR. LI: Well, it's the state's order to prove, so I --

MS. POLK: Your Honor, the issue of an audio clip that is the clip of the victim, James Shore -- I put that in the bench memorandum that we submitted yesterday. And I have a transcript of what's on that audio. And the state would like to offer that and publish it to the jury during the testimony of Stephen Ray, who will be the second witness this morning.

THE COURT: Mr. Li.

MR. LI: Your Honor, I believe yesterday we received notice that -- and I know the state has attempted to bring that clip in before. So I'm not going to say we didn't have notice about that.

But we also received notice that there were some additional 22 clips that the state intended to bring in. It wasn't clear with respect to which witnesses they intended to bring them in. And so we think we should litigate this issue

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relating to whether any of these clips should come in.

THE COURT: Let's stay specifically with the one that's proposed for possibly today through Mr. Stephen Ray. What about that one specifically, Mr. Li?

MR. LI: Well, I think the Court had noted at sidebar when we had requested that there are Sixth Amendment issues, there are relevance issues, and there are completeness issues relating to all of that.

What -- I believe this is where Mr. Shore states his intentions and what he wants to accomplish at the seminar.

I continue to believe that that has actually no relevance at all to the decision-making process for why he stayed in the sweat lodge. I also think that it's completely wrapped up in the broader issues that we describe in our motion that we filed yesterday.

All of this is -- and I'll -- I don't want to swerve into the argument relating to the First Amendment, but all of this conduct that we're describing here, all of these conversations, all of this, is protected by the First Amendment. All of

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it.

THE COURT: We're getting right into the First Amendment. If you want to do that and that's the basis of the argument here, then go ahead. But again, about ten minutes apiece for argument this morning.

MR. LI: Okay. And -- you know -- I appreciate it, Your Honor.

The problem is that you can't approach these clips piecemeal. The problem is that this is a five-day seminar where people have gone to express themselves, to engage in various philosophies of life.

And the state has taken the position that these philosophies and what have you are, in fact, the cause of three people dying and the reason why Mr. Ray is guilty of manslaughter.

That the state is seeking to criminalize -- that the state is seeking to criminalize speech is indisputable. We've cited many, many portions in our briefs. But I'll list a few.

Defendant told his participants on the first day to prepare for the ultimate battle, to live an honorable life, to devote themselves 100

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08:26:38AM 1 percent to everything they do or exist  
08:26:39AM 2 dishonorably. This is from the state's motion  
08:26:41AM 3 filed on February 25th.  
08:26:43AM 4 Defendant exhorted everyone to  
08:26:45AM 5 participate in the week's events 100 percent.  
08:26:47AM 6 That's also from the same motion.  
08:26:49AM 7 Now, from the opening statement  
08:26:51AM 8 participants were reminded again and again by  
08:26:53AM 9 Mr. Ray to play full on. Witnesses will testify by  
08:26:55AM 10 the end of the week they entered Mr. Ray's sweat  
08:26:57AM 11 lodge. They were exhausted mentally, weak, and  
08:26:59AM 12 fully conditioned to follow Mr. Ray's instruction.  
08:27:01AM 13 Participants were told to approach the Vision Quest  
08:27:03AM 14 with impeccability.  
08:27:05AM 15 All of these are speech. All of this is  
08:27:07AM 16 Mr. Ray exhorting people to do things.  
08:27:09AM 17 Now, the state takes the position that  
08:27:11AM 18 this is improper and that this is -- essentially,  
08:27:13AM 19 is the criminal conduct, that he exhorted people to  
08:27:15AM 20 do something that -- that eventually ended up in  
08:27:17AM 21 their deaths and that there's some improper  
08:27:19AM 22 criminal conduct relating to that.  
08:27:21AM 23 We would take the position that this is  
08:27:23AM 24 actually a philosophy asking people to live their  
08:27:25AM 25 lives to the fullest. Okay? But the courtroom --  
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08:27:46AM 1 a criminal trial is not the place for an argument  
08:27:48AM 2 over what a person's speech means. And the First  
08:27:50AM 3 Amendment specifically bars -- and there are  
08:27:52AM 4 literally dozens -- or at least a dozen Supreme  
08:27:54AM 5 Court cases relating to this exact topic. The  
08:27:56AM 6 Supreme Court bars criminalizing speech for the --  
08:27:58AM 7 for the impact it has on the listener.  
08:28:00AM 8 I just want to quote one portion from  
08:28:02AM 9 First National Bank v. Bellotti, 435 U.S. 765.  
08:28:04AM 10 Quote, the people in our democracy are entrusted  
08:28:06AM 11 with responsibility for judging and evaluating the  
08:28:08AM 12 merits of conflicting arguments. If there be any  
08:28:10AM 13 danger that the people cannot evaluate the  
08:28:12AM 14 information and arguments advanced by the speakers,  
08:28:14AM 15 it is a danger contemplated by the framers of the  
08:28:16AM 16 First Amendment.  
08:28:18AM 17 Now, Your Honor, this is black-letter law  
08:28:20AM 18 that -- that speech cannot be criminalized for the  
08:28:22AM 19 impact it has on the listener. There are  
08:28:24AM 20 exceptions. There are exceptions. But the general  
08:28:26AM 21 rule is that it cannot be criminalized.  
08:28:28AM 22 The state bears the burden of showing  
08:28:30AM 23 that a particular type of speech falls into an  
08:28:32AM 24 exception. The state bears the burden. And those  
08:28:34AM 25 were set out in Brandenburg v. Ohio, 394 U.S. 444.  
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08:29:21AM 1 And specifically they are that the speech is  
08:29:23AM 2 intended, one; to create imminent, two; and likely  
08:29:25AM 3 harm, three.  
08:29:27AM 4 So the state would have to show, and the  
08:29:29AM 5 state has not shown, that the speech that Mr. Ray  
08:29:31AM 6 engaged in was intended to create harm, that that  
08:29:33AM 7 harm was imminent, and that it was likely to create  
08:29:35AM 8 harm.  
08:29:37AM 9 So the idea that -- well, just take one  
08:29:39AM 10 example, the yoga exercises, whether they were  
08:29:41AM 11 mandatory or not mandatory. The idea that on  
08:29:43AM 12 Sunday morning or Monday morning if Mr. Ray says to  
08:29:45AM 13 his participants, you guys didn't do yoga. Shame  
08:29:47AM 14 on you. You're supposed to do yoga here -- the  
08:29:49AM 15 idea that, one, that is intended to create harm;  
08:29:51AM 16 two, that it is likely -- or that it is imminent,  
08:29:53AM 17 some imminent harm is going to flow from that; and  
08:29:55AM 18 three, that that harm is likely -- the state just  
08:29:57AM 19 simply has not made that showing.  
08:29:59AM 20 And the -- and the point that we're  
08:30:01AM 21 making here, Your Honor, is the state has  
08:30:03AM 22 repeatedly said, and the entire relevance of all of  
08:30:05AM 23 this testimony about sweat lodge, about medicine  
08:30:07AM 24 wheels and meditating and the Samurai Game and  
08:30:09AM 25 the Holosync and the breathwork and all of the  
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08:30:39AM 1 various exaltations that Mr. Ray has made, say,  
08:30:41AM 2 listen. Let's do this. Let's -- you know -- keep  
08:30:43AM 3 on doing it. You can do this. Get your  
08:30:45AM 4 100 percent out of all of this.  
08:30:47AM 5 All of that has been geared by the state  
08:30:49AM 6 and explicitly said so by the state to demonstrate  
08:30:51AM 7 that the listeners and the -- and, essentially, the  
08:30:53AM 8 decedents, were, quote, unquote, conditioned to  
08:30:55AM 9 follow Mr. Ray's rules. That is classic speech.  
08:30:57AM 10 It is, essentially, saying Mr. Ray's speech induced  
08:30:59AM 11 these various people to do various things.  
08:31:01AM 12 And that is explicitly prescribed by the  
08:31:03AM 13 First Amendment. And there are very specific rules  
08:31:05AM 14 under which exceptions can be made. And the state  
08:31:07AM 15 has not even -- not tipped a hat at any of those  
08:31:09AM 16 exceptions, made no showing at all.  
08:31:11AM 17 Instead, what has happened is clips just  
08:31:13AM 18 show up and then we have to figure out, well, how  
08:31:15AM 19 does this all fit into the broader context? Is  
08:31:17AM 20 this -- is this hearsay? Is it Mr. Ray's speech?  
08:31:19AM 21 Is it something else? Is it someone else's speech?  
08:31:21AM 22 Are people talking about their personal life? How  
08:31:23AM 23 do we even deal with this? And we get them at the  
08:31:25AM 24 last minute.  
08:31:27AM 25 It is not enough for the state to say  
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08:31:48AM 1 that we have four lawyers and that we've known  
 08:31:50AM 2 about these tapes for the last however many months.  
 08:31:54AM 3 I would note for the record that the state actually  
 08:31:56AM 4 has quite a large office, and I personally have  
 08:31:58AM 5 seen four lawyers working on their case.

08:32:01AM 6 They could just as easily say, Your  
 08:32:04AM 7 Honor, there are ten clips we'd like to introduce.  
 08:32:05AM 8 Here's our proffer for why they're relevant.  
 08:32:07AM 9 Here's our proffer for why they -- they get into  
 08:32:09AM 10 the exemptions for the First Amendment prescription  
 08:32:14AM 11 against prosecuting a man for his speech.

08:32:16AM 12 And, Your Honor, we'd ask the Court to  
 08:32:18AM 13 make the following finding. The risk was imminent,  
 08:32:20AM 14 the risk was intended, and the risk was likely.  
 08:32:23AM 15 And if we make those findings, Your Honor, we would  
 08:32:27AM 16 submit that these particular clips should come in  
 08:32:30AM 17 because they fall well within -- you know -- the  
 08:32:32AM 18 exceptions that are outlined in cases like  
 08:32:36AM 19 Brandenburg and the other cases.

08:32:37AM 20 But they have not done so.

08:32:39AM 21 And to simply just -- allied by the First  
 08:32:47AM 22 Amendment, Your Honor, with all due respect, would,  
 08:32:50AM 23 essentially, invite mistrial and invite error.

08:32:52AM 24 And we very much appreciate the  
 08:32:56AM 25 opportunity to talk to you today in a comprehensive  
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08:32:59AM 1 manner about this issue, because it is a large  
 08:33:01AM 2 issue. And there are no cases out there like this  
 08:33:04AM 3 one.

08:33:06AM 4 I think the reality -- we've looked high  
 08:33:08AM 5 and wide, and I'm sure the Court has too, to try to  
 08:33:12AM 6 find a case where there's a manslaughter conviction  
 08:33:16AM 7 that's being evaluated for the persuasiveness of a  
 08:33:20AM 8 person -- of a motivational speaker's words.  
 08:33:22AM 9 There's no --

08:33:22AM 10 THE COURT: I hate to interrupt, Mr. Li. But  
 08:33:24AM 11 you say there's no case out there like this, and  
 08:33:27AM 12 you talk about this being unprecedented. I'm not  
 08:33:30AM 13 aware of any events like this personally offhand  
 08:33:34AM 14 either. And so I'll -- I'll just mention that.

08:33:37AM 15 This is an unusual, apparently  
 08:33:40AM 16 unprecedented situation. So I just want to mention  
 08:33:45AM 17 that in terms of looking for cases that might deal  
 08:33:48AM 18 directly with it.

08:33:49AM 19 But excuse me.

08:33:50AM 20 MR. LI: No. No. Thank you, Your Honor. And  
 08:33:52AM 21 we've tried very hard to find a case that -- that  
 08:33:54AM 22 looks any way like this case. And there are none  
 08:33:58AM 23 as far as we know.

08:34:00AM 24 And so the problem is you've got a -- a  
 08:34:00AM 25 prosecution that has no precedent, and you have  
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08:34:04AM 1 grave First Amendment concerns relating to exactly  
 08:34:08AM 2 this issue. Because the state's prosecution theory  
 08:34:11AM 3 is that this five-day seminar, through his words,  
 08:34:14AM 4 Mr. Ray compelled certain actions out of people.

08:34:18AM 5 And you've got an unprecedented  
 08:34:21AM 6 prosecution and then you've got these grave First  
 08:34:24AM 7 Amendment concerns, and you have no effort by the  
 08:34:25AM 8 state to meet any of the requirements that the  
 08:34:28AM 9 First Amendment imposes.

08:34:29AM 10 THE COURT: Mr. Li, I do want to make you  
 08:34:31AM 11 aware, I've got the briefing yesterday afternoon,  
 08:34:34AM 12 and I've read it all.

08:34:36AM 13 MR. LI: I appreciate that, Your Honor. I  
 08:34:39AM 14 just --

08:34:39AM 15 THE COURT: I want you to know that. I know  
 08:34:40AM 16 the state has not responded. And we mentioned that  
 08:34:48AM 17 problem of -- well, there is a problem anyway in  
 08:34:49AM 18 having motions during trial. The motion deadline  
 08:34:52AM 19 was a long time ago; and now we're, essentially,  
 08:34:55AM 20 into motion-in-limine type work that is always  
 08:34:58AM 21 appropriate.

08:34:59AM 22 MR. LI: Your Honor, with due respect, we  
 08:35:02AM 23 filed a motion to preclude the -- these tapes. And  
 08:35:04AM 24 we raised the First Amendment as one of the issues.  
 08:35:07AM 25 Before -- we did not -- you know, there's five days  
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08:35:10AM 1 worth of tapes. So we don't really know what  
 08:35:13AM 2 exactly it was. We never knew exactly what it was  
 08:35:16AM 3 that the state intended to use out of those five  
 08:35:18AM 4 days.

08:35:19AM 5 Now we know. Now we know it's clips in  
 08:35:22AM 6 which they say things like -- I'll give you one  
 08:35:24AM 7 example, Your Honor. And this is critical for  
 08:35:27AM 8 determining -- for the reasoning why we're sort of  
 08:35:30AM 9 in this situation.

08:35:31AM 10 One of the clips, which is clip 9, that  
 08:35:34AM 11 the state provided to us, it says, a true  
 08:35:36AM 12 spiritual -- the clip they provided says -- ends  
 08:35:39AM 13 with the true spiritual warrior --

08:35:41AM 14 THE COURT: Without symbolic? Is that the one  
 08:35:45AM 15 you're talking about?

08:35:46AM 16 MR. LI: It's another one -- I mean, that was  
 08:35:48AM 17 one. That was one. But there's another one.

08:35:47AM 18 A true spiritual warrior is an individual  
 08:35:51AM 19 who's willing to fight the good fight even when  
 08:35:53AM 20 it's -- even when it's uncomfortable, to do  
 08:35:55AM 21 whatever it takes. And then it stops.

08:35:58AM 22 And then the rest of it is, to live  
 08:36:00AM 23 beyond their moods. And a tough part of it is --  
 08:36:03AM 24 you know, it's really easy to choose things and say  
 08:36:06AM 25 I commit to those things. But how many people

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08:36:08AM 1 really live those things above and beyond their  
 08:36:11AM 2 moods? Most people are victims of their moods.  
 08:36:13AM 3 Well, I know I said that being in shape  
 08:36:15AM 4 was very important to me, but -- you know -- I'm  
 08:36:17AM 5 tired and I've had a long day, and I just need to  
 08:36:20AM 6 veg tonight.

08:36:20AM 7 So what happens is there's a tape here  
 08:36:22AM 8 that starts with the idea that you've got to  
 08:36:24AM 9 live -- you know -- like a samurai and you've got  
 08:36:26AM 10 to fight, fight, fight, fight, and do what's  
 08:36:28AM 11 uncomfortable and do whatever it takes.

08:36:31AM 12 And the actual context is -- you know --  
 08:36:35AM 13 the example that Mr. Ray actually gives, which has  
 08:36:38AM 14 been clipped out of this page, is that, well -- you  
 08:36:40AM 15 know -- I think it's important to be in shape and  
 08:36:43AM 16 sometimes I want to go to the gym, but I don't.  
 08:36:46AM 17 And I just veg out by the TV.

08:36:48AM 18 The point is -- and I have this example.  
 08:36:50AM 19 And I'll -- I'll leave it with this, Your Honor.  
 08:36:53AM 20 My -- and this is just on the 107 tapes. There are  
 08:36:57AM 21 some other issues.

08:36:58AM 22 I live in a community that was founded by  
 08:37:01AM 23 Methodists. And there's a lot of -- it was a camp.  
 08:37:04AM 24 And they would come here for retreats and they  
 08:37:07AM 25 would do all of their -- you know -- a lot of

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08:37:10AM 1 outdoor activities out -- you know -- right near  
 08:37:11AM 2 where I live.

08:37:12AM 3 And if somebody -- you know -- if they  
 08:37:13AM 4 had a five-day retreat and somebody died in the  
 08:37:16AM 5 course of the retreat, and the state decided to  
 08:37:19AM 6 prosecute -- you know -- the leader of that church  
 08:37:23AM 7 group.

08:37:23AM 8 And as part of their prosecution the  
 08:37:25AM 9 state decided, well, we want to include the sermons  
 08:37:30AM 10 that the -- that the minister gave. And we want --  
 08:37:34AM 11 but just the sermons. We want to include only the  
 08:37:38AM 12 part where he says, I die daily. You know, if he  
 08:37:40AM 13 quotes Corinthians and the Apostles and says, I die  
 08:37:43AM 14 daily.

08:37:43AM 15 And the state wants to show that that  
 08:37:45AM 16 means that he was trying to impose some sort of  
 08:37:48AM 17 death wish on the participants.

08:37:51AM 18 Now, if we were in the position of having  
 08:37:53AM 19 to defend this minister -- and I'm not saying  
 08:37:56AM 20 Mr. Ray is a minister, and I'm not saying that this  
 08:37:57AM 21 is about -- this is an analogy. If we were to  
 08:38:03AM 22 defend this minister, we would have to say -- you  
 08:38:06AM 23 know -- state, you're interpretation of this  
 08:38:08AM 24 particular theology is wrong. I die daily means  
 08:38:10AM 25 much more. It's about commitment to faith. It's

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08:38:14AM 1 about reexamining your commitment to faith every  
 08:38:17AM 2 single day.

08:38:18AM 3 We would have to have scholars fighting  
 08:38:21AM 4 back and forth about what -- what the faith  
 08:38:23AM 5 actually means. And this would become like the  
 08:38:27AM 6 trial of Socrates where somebody is literally being  
 08:38:31AM 7 prosecuted because of what the state thinks, what  
 08:38:35AM 8 the state believes, the person's philosophy is.

08:38:37AM 9 And that's explicitly outlawed by the  
 08:38:41AM 10 First Amendment. Our founders explicitly thought  
 08:38:44AM 11 about this issue and outlawed it. And they created  
 08:38:47AM 12 a very narrow exception for, essentially, fighting  
 08:38:54AM 13 words for incitement of violence.

08:38:55AM 14 Mr. Ray's comments are not incitement to  
 08:38:58AM 15 violence. The fact that we even cite those cases  
 08:39:01AM 16 is because we want to be complete and we want to  
 08:39:03AM 17 the Court to see that we understand there are  
 08:39:05AM 18 exceptions.

08:39:08AM 19 Mr. Ray -- all he did was encourage  
 08:39:09AM 20 people to do their best. That is not -- nowhere  
 08:39:12AM 21 near the exceptions of the First Amendment has  
 08:39:19AM 22 created.

08:39:20AM 23 THE COURT: Thank you, Mr. Li.

08:39:21AM 24 Ms. Polk.

08:39:23AM 25 MS. POLK: Thank you, Your Honor.

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08:39:25AM 1 Your Honor, first of all, the defense  
 08:39:27AM 2 in --

08:39:28AM 3 Judge, did you receive the bench  
 08:39:30AM 4 memorandum that the state filed.

08:39:37AM 5 THE COURT: The -- I've received two memoranda  
 08:39:40AM 6 from the state, one having to do with the specific  
 08:39:43AM 7 clip we're talking about and then the other having  
 08:39:43AM 8 to do with copyright and use of games. Those are  
 08:39:49AM 9 the two --

08:39:50AM 10 MS. POLK: Thank you.

08:39:50AM 11 THE COURT: -- memos I got.

08:39:50AM 12 MS. POLK: You had made the comment that the  
 08:39:52AM 13 state had not responded. We did not, but we had  
 08:39:55AM 14 filed a bench memorandum on the issue of the audio  
 08:39:58AM 15 clips.

08:39:59AM 16 But, Your Honor, first of all, the -- in  
 08:40:00AM 17 what the defense files, they cite two transcripts  
 08:40:04AM 18 of the state's opening, and they also cite the  
 08:40:07AM 19 transcripts of witnesses' testimony without  
 08:40:09AM 20 attaching those transcripts.

08:40:11AM 21 Those -- the state does not have those  
 08:40:13AM 22 transcripts, and the state would ask that if the  
 08:40:16AM 23 defense is going to cite to something that is not  
 08:40:18AM 24 part of the record, something that the state does  
 08:40:20AM 25 not have access to, that they provide -- either

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08:40:23AM 1 attach the transcript or provide the state with the  
 08:40:25AM 2 transcripts so that we can totally respond.  
 08:40:32AM 3 The defense is setting up a test that  
 08:40:35AM 4 they claim applies to a defendant's word that is  
 08:40:38AM 5 completely nonexistent. Whether or not words  
 08:40:44AM 6 uttered by a defendant come in are controlled by  
 08:40:45AM 7 the Arizona Rules of Evidence. And a defendant's  
 08:40:48AM 8 words are not hearsay pursuant to 801(d)(2)(a).  
 08:40:55AM 9 And additionally, if they are relevant, they come  
 08:40:58AM 10 in.

08:40:58AM 11 I did have a chance to review the  
 08:41:00AM 12 memorandum filed. I have not filed anything in  
 08:41:03AM 13 writing in response. But in looking at the cases  
 08:41:06AM 14 and the argument that the defense has made, they  
 08:41:10AM 15 are creating some additional tests for defendant's  
 08:41:12AM 16 words that simply do not exist.

08:41:17AM 17 There clearly are a line of cases that  
 08:41:19AM 18 the United States Supreme Court has addressed that  
 08:41:21AM 19 deal with free speech, both in civil and criminal  
 08:41:25AM 20 context. The Supreme Court has allowed the  
 08:41:27AM 21 criminalization of words that incite to violence --  
 08:41:30AM 22 for example, yelling "fire" in a theater -- because  
 08:41:35AM 23 of the impact on the listener is the type of free  
 08:41:38AM 24 speech that can be criminalized.

08:41:41AM 25 But the cases cited by the defendant are  
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08:41:43AM 1 simply inapplicable to what's happening in this  
 08:41:46AM 2 courtroom. Those are cases -- the cases they cite  
 08:41:50AM 3 are cases where because of a defendant's words, he  
 08:41:53AM 4 incites a third party to go commit a criminal act.  
 08:41:56AM 5 That's not what this case is about.

08:41:58AM 6 This case is about the defendant's own  
 08:42:00AM 7 actions that are criminal. He's charged with  
 08:42:02AM 8 recklessly causing the death -- the deaths of three  
 08:42:06AM 9 people. And to the extent that his words are  
 08:42:08AM 10 relevant under 403, then they come in.

08:42:12AM 11 And just to read from Rule 403, "relevant  
 08:42:15AM 12 evidence" means evidence having any tendency to  
 08:42:18AM 13 make the existence of any fact that is of  
 08:42:21AM 14 consequence to determine of the -- determination of  
 08:42:22AM 15 the action more probable or less probable than it  
 08:42:26AM 16 would be without the evidence.

08:42:27AM 17 That's the test, not something under  
 08:42:31AM 18 these cases that talk about free speech and  
 08:42:35AM 19 inciting a third person to commit some violent --  
 08:42:37AM 20 or some criminal act.

08:42:43AM 21 The analysis is pretty straightforward,  
 08:42:46AM 22 Your Honor. Relevant evidence that goes to the  
 08:42:52AM 23 state of mind of participants and the victims and  
 08:42:56AM 24 to their conduct in the sweat lodge comes in. The  
 08:42:58AM 25 best evidence of the defendant's words come from

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08:42:58AM 1 what is on that audio.

08:43:00AM 2 And the Court correctly noted that in  
 08:43:02AM 3 ruling on the admissibility -- or not on the  
 08:43:05AM 4 admissibility, but on the requirement that the  
 08:43:07AM 5 defense provide to the state the audio. What the  
 08:43:10AM 6 Court wrote is that there simply is no testimonial  
 08:43:14AM 7 equivalent of clear and accurate electronic  
 08:43:17AM 8 recordings of actual events in a case. Any  
 08:43:19AM 9 questions going to the accuracy and clarity of the  
 08:43:21AM 10 recording and any questions of relevancy and  
 08:43:24AM 11 materiality can be addressed should the need arise.

08:43:26AM 12 It's clear that witnesses on the stand  
 08:43:31AM 13 can talk about what a defendant said. The audio is  
 08:43:35AM 14 a more accurate rendition of what a defendant said.  
 08:43:39AM 15 And if it meets the test of relevance, then it  
 08:43:42AM 16 comes in.

08:43:43AM 17 Again, the Court noted on Friday a pretty  
 08:43:47AM 18 straightforward, simple test, which is if  
 08:43:50AM 19 information, evidence, is relevant to the state of  
 08:43:55AM 20 mind of participants and victims and to their  
 08:43:58AM 21 conduct in the sweat lodge, then it should come in.  
 08:44:00AM 22 And that's what the issue is.

08:44:02AM 23 This discussion about First Amendment and  
 08:44:06AM 24 criminalizing First Amendment simply is not  
 08:44:08AM 25 relevant. It's taken out of context from  
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08:44:11AM 1 third-party cases and tried -- the defense is  
 08:44:15AM 2 trying to make it apply to a case where -- this is  
 08:44:17AM 3 a criminal case about the criminal conduct of the  
 08:44:20AM 4 defendant, not criminal conduct of a third person.

08:44:26AM 5 Your Honor, the state -- we find  
 08:44:30AM 6 ourselves between a rock and a hard place. We have  
 08:44:33AM 7 the audio that the defendant has had for a long  
 08:44:35AM 8 time. We have made the offer to admit the entire  
 08:44:38AM 9 audio. The defendant does not want the entire  
 08:44:41AM 10 audio to come in.

08:44:42AM 11 We then prepared a master CD of the  
 08:44:45AM 12 specific clips of the defendant's words that we  
 08:44:48AM 13 believe are relevant, and the defense was unhappy  
 08:44:52AM 14 with what they called something being too  
 08:44:55AM 15 voluminous.

08:44:56AM 16 I have provided -- timely provided to  
 08:44:58AM 17 them specific audio clips of what we intend to play  
 08:45:02AM 18 throughout the rest of the trial, and now we're  
 08:45:04AM 19 down to 22 clips that have not been admitted.

08:45:07AM 20 Many clips have already been admitted.  
 08:45:08AM 21 We played the entire audio of the sweat lodge  
 08:45:13AM 22 briefing from Thursday. That's all been admitted.  
 08:45:17AM 23 And that -- we have broken that into a number --  
 08:45:18AM 24 down into a number of clips. We instead played the  
 08:45:21AM 25 entire briefing at the defendant's request. So the

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08:45:23AM 1 number of actual audio clips is much less than it  
 08:45:27AM 2 would have been.  
 08:45:28AM 3 But sheer volume of evidence does not  
 08:45:30AM 4 make evidence inadmissible. But in order to assist  
 08:45:32AM 5 the defense, we have now identified 22 audio clips  
 08:45:40AM 6 that we will move to admit throughout the course of  
 08:45:42AM 7 the trial, throughout the remaining witnesses.

08:45:46AM 8 It's not last minute.

08:45:48AM 9 And what I've asked the defense to do,  
 08:45:50AM 10 Your Honor, is to provide me with Rule 106 context.  
 08:45:55AM 11 Again, they haven't done it. But if they believe  
 08:45:58AM 12 that more words should be played, I will play them.  
 08:46:02AM 13 But I believe that if they under 106 want a larger  
 08:46:07AM 14 part of the defendant's words played, they should  
 08:46:10AM 15 prepare that and provide that to me rather than  
 08:46:12AM 16 just object and then at the last minute expect the  
 08:46:15AM 17 state to run back to our conference room and try to  
 08:46:18AM 18 make expanded audio clips. I don't think that's  
 08:46:21AM 19 unreasonable.

08:46:21AM 20 At this point I haven't heard anything  
 08:46:23AM 21 from the defense about the 22 other than generally  
 08:46:26AM 22 objecting. But -- and other than standing up here  
 08:46:29AM 23 in court and claiming that these audios are taken  
 08:46:32AM 24 out of context. Again, they have not provided me  
 08:46:34AM 25 with the expanded context that they would like

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08:46:37AM 1 played.

08:46:38AM 2 Your Honor, much of this argument goes to  
 08:46:41AM 3 the weight of the evidence. Whether or not  
 08:46:44AM 4 defendant's words impacted the state of mind and  
 08:46:47AM 5 conduct of victims and witnesses -- and  
 08:46:50AM 6 participants in the sweat lodge is what the jury  
 08:46:54AM 7 ultimately will decide.

08:46:55AM 8 Clearly through the witnesses that have  
 08:46:57AM 9 testified already, Your Honor, they have all  
 08:47:00AM 10 testified that the entire seminar, starting with  
 08:47:02AM 11 the fact that they had paid \$10,000 -- for many  
 08:47:05AM 12 starting with the fact that they had first been  
 08:47:07AM 13 introduced to the defendant through one of his  
 08:47:10AM 14 other seminars. Then they paid 10,000. They show  
 08:47:14AM 15 up, and from the very beginning are exhorted to  
 08:47:17AM 16 play full on and told that all of the activities  
 08:47:20AM 17 are mandatory to achieve the full benefit.

08:47:25AM 18 There's been no question through the  
 08:47:26AM 19 testimony of witnesses that they were impacted and  
 08:47:29AM 20 influenced. And what they did in the sweat lodge  
 08:47:32AM 21 was definitely influenced by every single event and  
 08:47:35AM 22 every single thing that the defendant said.

08:47:38AM 23 This is not a sweat lodge where people  
 08:47:41AM 24 simply showed up on day one and went into a sweat  
 08:47:44AM 25 lodge. By the time they got into the sweat lodge,

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08:47:46AM 1 they had been repeatedly, repeatedly, exhorted by  
 08:47:50AM 2 the defendant to play full on and to push  
 08:47:53AM 3 through -- that if something was uncomfortable that  
 08:47:56AM 4 that was actually a benefit to them. And there  
 08:47:58AM 5 will be additional evidence about that, Your Honor,  
 08:48:01AM 6 offered throughout the course of the remainder of  
 08:48:03AM 7 the trial.

08:48:06AM 8 I want to discuss specifically the James  
 08:48:08AM 9 Shore audio because we will get to that in this  
 08:48:12AM 10 morning's testimony with Stephen Ray. And, Your  
 08:48:22AM 11 Honor, that is a short transcript I attached to the  
 08:48:24AM 12 state's bench memorandum.

08:48:31AM 13 Through witness Dennis Mehravar, the  
 08:48:35AM 14 defense cross-examined him and brought out  
 08:48:38AM 15 information about the Sunday evening gathering when  
 08:48:42AM 16 the defendant gave the participants a lecture and  
 08:48:45AM 17 then he had each one of them write their intentions  
 08:48:48AM 18 for the week.

08:48:48AM 19 And in cross-examining Mr. Mehravar, the  
 08:48:51AM 20 defendant specifically read to him what he had  
 08:48:53AM 21 written and -- because Mr. Mehravar had taken the  
 08:48:57AM 22 microphone and read out loud his intention for the  
 08:49:00AM 23 week. The defendant had a transcript of that. The  
 08:49:03AM 24 defense counsel did.

08:49:04AM 25 They read it to Mr. Mehravar on the  
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08:49:06AM 1 stand, and Mr. Mehravar agreed that, yes, that was  
 08:49:09AM 2 what he read at the mic, that he had written that  
 08:49:12AM 3 at the defendant's direction, and that that was his  
 08:49:15AM 4 intention for the week.

08:49:17AM 5 During that same open-mic session, victim  
 08:49:19AM 6 James Shore stood up and read his intention for the  
 08:49:22AM 7 week. And his intention for the week is clearly  
 08:49:27AM 8 relevant to his state of mind and his conduct  
 08:49:29AM 9 within the sweat lodge. It clearly comes in. It  
 08:49:34AM 10 is an exception to the hearsay rule because it  
 08:49:37AM 11 illustrates his state of mind and his conduct  
 08:49:40AM 12 inside the sweat lodge. It's very similar to the  
 08:49:42AM 13 excerpt from Kirby Brown that the jury has already  
 08:49:47AM 14 heard. And it clearly comes in.

08:49:50AM 15 If the defense believes that there's a  
 08:49:53AM 16 greater context that should come in around it, if  
 08:49:56AM 17 they would just let the state know, we can prepare  
 08:49:59AM 18 a larger audio.

08:50:03AM 19 But that audio clip demonstrates that  
 08:50:06AM 20 Mr. Ray, the defendant, knew that James Shore had  
 08:50:10AM 21 adopted his teachings of the week. Specifically he  
 08:50:13AM 22 uses the words "to live impeccably, to continue on  
 08:50:17AM 23 the path to enlightenment without distraction, and  
 08:50:20AM 24 to embrace everything both God and my higher self  
 08:50:23AM 25 place in my path as enhancements on my journey and

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08 50 27AM 1 necessary to speed me on my way." And ultimately  
 08 50 30AM 2 the -- that path included surrendering to that  
 08 50 36AM 3 extreme heat in order to achieve that promised  
 08 50 40AM 4 enlightenment.

08 50 43AM 5 Thank you, Judge.

08 50 42AM 6 THE COURT: Thank you, Ms. Polk.

08 50 43AM 7 Mr. Li.

08 50 44AM 8 MR. LI: Your Honor, just to go back to the  
 08 50 48AM 9 issue of the 107 tapes relating to -- and the First  
 08 50 52AM 10 Amendment issue, one important part of the rules  
 08 50 54AM 11 are that relevance has to be of any fact of  
 08 50 58AM 12 consequence. And a fact of consequences is only a  
 08 51 00AM 13 fact of consequence if it can lead to some legal  
 08 51 03AM 14 conclusion.

08 51 04AM 15 For instance, in this particular case,  
 08 51 06AM 16 the fact of consequences that the state wants to  
 08 51 09AM 17 introduce is that Mr. Ray's speech induced various  
 08 51 14AM 18 people to harm themselves, which is false. But  
 08 51 17AM 19 that -- that is the -- that is the argument the  
 08 51 19AM 20 state wants to make.

08 51 20AM 21 The Supreme Court explicitly deals with  
 08 51 24AM 22 this issue repeatedly. The problem -- we'd be  
 08 51 27AM 23 absolutely happy to brief this more fully. But  
 08 51 30AM 24 there is absolutely no exception under First  
 08 51 33AM 25 Amendment precedent that turns on whether resulting  
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08 51 35AM 1 harm caused -- follows the speaker.

08 51 38AM 2 THE COURT: Mr. Li, we've gone more than the  
 08 51 42AM 3 ten minutes apiece. And I need to ask you if any  
 08 51 45AM 4 of those cases deal with the situation where there  
 08 51 48AM 5 is arguably a legal duty combined with conduct as  
 08 51 52AM 6 well as the speech. I think that's the  
 08 51 54AM 7 distinction. I think Ms. Polk just raised the  
 08 51 57AM 8 that.

08 51 57AM 9 The distinction is is there a legal duty  
 08 52 00AM 10 to this other person who's the listener and is  
 08 52 03AM 11 there conduct also by the speaker, not just the  
 08 52 07AM 12 speech. I didn't have time to look into this. I  
 08 52 08AM 13 got this yesterday. You did raise the -- the First  
 08 52 14AM 14 Amendment matter has been raised in the prior  
 08 52 16AM 15 pleading.

08 52 17AM 16 But do any of those cases address that  
 08 52 20AM 17 situation? That's a different situation than  
 08 52 21AM 18 someone who's on the radio inciting or out on the  
 08 52 25AM 19 street inciting. Somebody where there's no  
 08 52 27AM 20 conceivable legal duty whatsoever.

08 52 28AM 21 Here, arguably, according to the state,  
 08 52 34AM 22 there is a legal duty. And it's combined with  
 08 52 36AM 23 conduct. That's my question.

08 52 36AM 24 MR. LI: Well, they would have to first assert  
 08 52 38AM 25 what the actual legal duty is. But I think the

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08 52 40AM 1 answer to that, Your Honor, is there are some  
 08 52 42AM 2 narrowly -- there are some narrow exceptions to the  
 08 52 44AM 3 First Amendment rules. Fraud, for instance,  
 08 52 47AM 4 obscenities. Those sorts of things. Okay?

08 52 48AM 5 But there is not a body of case law  
 08 52 51AM 6 that deals with a scenario that the Court is  
 08 52 55AM 7 currently describing and then creates an exception  
 08 52 57AM 8 to the First Amendment based on that.

08 53 00AM 9 There are explicit areas where -- I'll  
 08 53 03AM 10 give you an example. Okay? So, for instance, the  
 08 53 05AM 11 fraud context. All right? Clearly the courts have  
 08 53 08AM 12 carved out an exception --

08 53 09AM 13 THE COURT: It's in the footnote to your brief  
 08 53 11AM 14 about solicitation and those types of conduct.  
 08 53 14AM 15 Also I would think accomplice liability, for  
 08 53 18AM 16 example, as long as it's based on simply words and  
 08 53 21AM 17 words end up being punished.

08 53 23AM 18 But I -- I'm asking if the situation  
 08 53 27AM 19 isn't completely distinguishable just because there  
 08 53 30AM 20 is arguably a legal duty and it's combined with  
 08 53 32AM 21 conduct. That's my question.

08 53 33AM 22 MR. LI: And the answer is I'm not aware of  
 08 53 35AM 23 any case law that provides an exception based on  
 08 53 38AM 24 what the Court is describing.

08 53 40AM 25 The point is it's the state's burden to  
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08 53 42AM 1 get around the First Amendment. And so I've not  
 08 53 45AM 2 seen a single case that says the state's theory  
 08 53 48AM 3 works. It's not the defense's burden to -- you  
 08 53 52AM 4 know -- create a new doctrine of First Amendment  
 08 53 56AM 5 law.

08 53 56AM 6 THE COURT: But I'm looking at the cases  
 08 53 57AM 7 you're citing, and they just don't seem to apply to  
 08 54 01AM 8 the kind of situation where there's a -- arguably a  
 08 54 03AM 9 legal duty between the speaker and the listener.

08 54 07AM 10 MR. LI: Your Honor, here's my -- here's my  
 08 54 08AM 11 view of how it works: The First Amendment bars  
 08 54 11AM 12 prosecuting people for their speech, period. Okay?

08 54 13AM 13 Now, there are some exceptions that's  
 08 54 17AM 14 Supreme Court has created. And if you fall within  
 08 54 19AM 15 those certain exceptions, the government can  
 08 54 21AM 16 prosecute a person.

08 54 22AM 17 THE COURT: I guess I'm not seeing it as  
 08 54 24AM 18 relating to the speech. I'm seeing it relating to  
 08 54 27AM 19 the conduct. That's the way I view this.

08 54 28AM 20 MR. LI: And -- and the problem is that --

08 54 31AM 21 THE COURT: The alleged conduct. Just for the  
 08 54 33AM 22 purposes of argument.

08 54 35AM 23 MR. LI: Understood. The problem is that what  
 08 54 38AM 24 the state actually wants to use is not conduct.  
 08 54 40AM 25 It's 107 clips of speech, which is very different

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08:54:45AM 1 than conduct.  
 08:54:47AM 2 If Mr. Ray had been shoving people into  
 08:54:49AM 3 the activities or threatening them physically or  
 08:54:51AM 4 something like that, then yes. You would have  
 08:54:53AM 5 conduct that is expressive but -- you know -- it  
 08:54:55AM 6 has different qualities than these various  
 08:55:00AM 7 discussions about spirit being a spiritual warrior  
 08:55:03AM 8 and fighting the good fight and et cetera.

08:55:05AM 9 What the state is seeking to introduce --  
 08:55:09AM 10 and the state is saying oh. Only -- the only issue  
 08:55:11AM 11 that the Court needs to consider is the Arizona  
 08:55:13AM 12 evidence code, is all speech. It's not conduct.  
 08:55:18AM 13 It's all speech. It's tape-recorded speech.

08:55:22AM 14 And so the problem is that the state  
 08:55:25AM 15 can't simply ignore the First Amendment and throw  
 08:55:30AM 16 it all in and see what -- you know -- what the jury  
 08:55:34AM 17 might make of it. I believe that would be building  
 08:55:37AM 18 in frankly, Your Honor, error and a mistrial.

08:55:41AM 19 THE COURT: Mr. Li, I'd like you to address  
 08:55:43AM 20 the specific excerpt that was attached to the  
 08:55:47AM 21 state's --

08:55:47AM 22 MR. LI: Yeah.

08:55:49AM 23 THE COURT: -- memorandum. Audio clips and  
 08:55:53AM 24 specifically 803(3), any position you have.

08:55:55AM 25 MR. LI: There is relating to Mr. Shore?  
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08:55:56AM 1 THE COURT: Yes.

08:55:57AM 2 MR. LI: Okay. So, first of all, there's a  
 08:55:59AM 3 great First Amendment concern. Ms. Polk in her  
 08:56:02AM 4 argument said what this tape showed was what  
 08:56:06AM 5 Mr. Shore's state of mind was when he decided to  
 08:56:08AM 6 participate in the spiritual warrior seminar.

08:56:11AM 7 I would submit that we are not in a  
 08:56:13AM 8 position to cross-examine Mr. Shore about whether  
 08:56:15AM 9 this -- this commitment included dying or -- you  
 08:56:21AM 10 know -- to have any sort of conversation with  
 08:56:23AM 11 Mr. Shore about what his exact commitment was.

08:56:25AM 12 The difference between having  
 08:56:27AM 13 Mr. Mehravar on the stand and -- and asking him  
 08:56:31AM 14 about what his commitments were is that he's on the  
 08:56:33AM 15 stand and we can -- we can find out what he really  
 08:56:35AM 16 means.

08:56:38AM 17 When he says, it was a horrible  
 08:56:38AM 18 experience and I needed to go screaming out the  
 08:56:41AM 19 door, we can cross-examine him and find out that  
 08:56:43AM 20 actually he just didn't like the music that was  
 08:56:45AM 21 being played on his earphones.

08:56:48AM 22 With respect to Mr. Shore, the state just  
 08:56:50AM 23 wants to introduce this tape to show his,  
 08:56:53AM 24 Mr. Shore's, state of mind.

08:56:55AM 25 The tape relating to Ms. Brown -- that  
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08:56:58AM 1 was admitted by the Court over our objection. The  
 08:57:01AM 2 Court made a specific ruling that it was only  
 08:57:03AM 3 conditionally admitted to show Mr. Ray's state of  
 08:57:07AM 4 mind.

08:57:07AM 5 THE COURT: Which was raised more generally by  
 08:57:10AM 6 your limiting instruction to listener. And the  
 08:57:13AM 7 problem there was the existence of remembered  
 08:57:17AM 8 facts, which would not be present in -- in this, it  
 08:57:22AM 9 seems to me.

08:57:24AM 10 MR. LI: But this is -- there is a Sixth  
 08:57:28AM 11 Amendment issue, Your Honor. We have no -- no way  
 08:57:29AM 12 of discussing with Mr. Shore what his actual  
 08:57:32AM 13 intentions were.

08:57:33AM 14 THE COURT: I realize that. And the cases I  
 08:57:36AM 15 looked at last night, State v. Via, 146 Ariz. 108;  
 08:57:45AM 16 State v. Engweiler, E-n-g-w-e-i-l-e-r, 846 P.2d  
 08:57:54AM 17 1163. That's an Oregon Appellate decision. And  
 08:58:01AM 18 then State v. Crone, 182 Ariz. 319, Supreme Court  
 08:58:06AM 19 of Arizona decision.

08:58:09AM 20 And based on that authority, I concluded  
 08:58:14AM 21 that this excerpt would be admissible. Whether  
 08:58:18AM 22 there needs to be something in addition under  
 08:58:21AM 23 Rule 106, as we've been citing that repeatedly,  
 08:58:26AM 24 that's another question.

08:58:26AM 25 Are you saying there is in this instance?  
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08:58:28AM 1 That there's going to be -- than the other one --  
 08:58:30AM 2 if this is going to be there, there needs to be  
 08:58:31AM 3 more?

08:58:32AM 4 MR. LI: We have no idea how to respond to  
 08:58:34AM 5 a -- you know -- six-sentence clip by Mr. Shore as  
 08:58:37AM 6 to whether his -- what his actual intentions were  
 08:58:40AM 7 to make that particular clip more complete.

08:58:43AM 8 The problem is, Your Honor, exactly the  
 08:58:46AM 9 issue that we've been describing, I've been  
 08:58:48AM 10 attempting to describe relating to the First  
 08:58:50AM 11 Amendment. There's a whole body of thought that  
 08:58:52AM 12 goes with all of this.

08:58:53AM 13 Mr. Shore has been to other seminars.  
 08:58:54AM 14 He's read these various books, as have many of  
 08:58:57AM 15 these participants. And all of these things have  
 08:59:00AM 16 specific meanings. And the state is, essentially,  
 08:59:02AM 17 taking the position that those specific meanings  
 08:59:04AM 18 that are speech provided by Mr. Ray, induced people  
 08:59:10AM 19 to, essentially, hurt themselves, which is, under  
 08:59:12AM 20 the state's theory, a crime.

08:59:15AM 21 And we would submit, as we have done so  
 08:59:18AM 22 in writing, that it would be error to allow the  
 08:59:22AM 23 state to proceed on this basis of a prosecution  
 08:59:25AM 24 where, essentially, Mr. Ray is being alleged to  
 08:59:28AM 25 have induced people through speech to commit -- you

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08 59 33AM 1 know -- various harm without the state first making  
08 59 38AM 2 the various showings necessary under the Supreme  
08 59 39AM 3 Court precedent. That's the problem with this --  
08 59 41AM 4 this entire approach.

08 59 43AM 5 THE COURT: Mr. Li, you've stated that.

08 59 42AM 6 MR. LI: I know.

08 59 44AM 7 THE COURT: That is your position. You've  
08 59 45AM 8 stated it. It's in your brief, and you've stated  
08 59 46AM 9 it this morning as well.

08 59 50AM 10 We need to proceed. I have a couple of  
08 59 53AM 11 matters I have to attend to. The jury is coming at  
08 59 57AM 12 9:15. I want to start as soon as possible after  
08 59 58AM 13 that. So we will recess briefly.

08 59 59AM 14 Thank you.

08 59 00AM 15 MR. LI: And, Your Honor, just for the  
08 59 00AM 16 purposes of case management. So we've noted our  
08 59 00AM 17 objection. And if it's the Court's intention to  
08 59 00AM 18 allow this tape to be played, we just want to note  
08 59 00AM 19 our objection. We won't bring it up in front of  
08 59 00AM 20 the jury, but we note our objection for all the  
08 59 00AM 21 grounds stated.

08 59 00AM 22 THE COURT: Yes, you have. Thank you.

08 59 00AM 23 (Recess.)

08 59 00AM 24 (Proceedings continued in the presence of  
08 59 00AM 25 jury.)

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08 19 46AM 1 THE COURT: We're on the record in State  
08 19 47AM 2 versus James Arthur Ray. Mr. Ray is present with  
08 19 48AM 3 the attorneys. The jury has returned.

08 19 51AM 4 Good morning.

08 19 54AM 5 The witness, Dr. Bunn, is on the witness  
08 19 58AM 6 stand. She has previously been sworn.

08 20 01AM 7 Mr. Kelly, you were conducting  
08 20 03AM 8 cross-examination.

08 20 04AM 9 MR. KELLY: Thank you, Judge.

08 20 04AM 10 CROSS-EXAMINATION (Continued)

08 20 04AM 11 BY MR. KELLY:

08 20 05AM 12 Q. Dr. Bunn, how are you today?

08 20 08AM 13 A. Fine. Thank you.

08 20 09AM 14 Q. When we left last week, I believe we had  
08 20 16AM 15 just discussed some aspects in regards to  
08 20 26AM 16 dehydration, heat exhaustion, et cetera. Do you  
08 20 31AM 17 recall those questions?

08 20 32AM 18 A. I recall some questions, not exact  
08 20 34AM 19 wording.

08 20 34AM 20 Q. Do you recall our discussion about your  
08 20 38AM 21 trip into the Grand Canyon?

08 20 40AM 22 A. I do.

08 20 42AM 23 Q. Do you recall the discussions relating to  
08 20 48AM 24 that? You had a guide who had told you it would be  
08 20 48AM 25 important to hydrate perhaps as much as two liters

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09 20 51AM 1 per hour; correct? We discussed that quite a bit?

09 20 58AM 2 A. Yes.

09 20 57AM 3 Q. We talked about your medical training in  
09 20 58AM 4 that regard. I flipped over the chart, and we  
09 21 01AM 5 talked about some criteria that are necessary to  
09 21 06AM 6 show heat stroke, such as dehydration and an  
09 21 08AM 7 increased internal body core temperature.

09 21 12AM 8 Do you recall those questions?

09 21 13AM 9 A. Yes.

09 21 14AM 10 Q. I want to take you now to the Spiritual  
09 21 26AM 11 Warrior Seminar. And it's true, is it not, ma'am,  
09 21 28AM 12 that at the very beginning of the seminar, very  
09 21 33AM 13 first day, Sunday morning, when you first heard  
09 21 38AM 14 from my client, James Ray, he emphasized the  
09 21 40AM 15 necessity of hydration; correct?

09 21 42AM 16 A. Correct.

09 21 42AM 17 Q. He said during the first few minutes of  
09 21 46AM 18 the presentation to the group that it was necessary  
09 21 48AM 19 to hydrate, hydrate, hydrate; correct?

09 21 51AM 20 A. He did.

09 21 52AM 21 Q. You are in the dessert; correct?

09 21 56AM 22 A. We're in the hall.

09 21 57AM 23 Q. Do you remember -- here's the question:  
09 22 00AM 24 Do you remember him saying, I'm going to share some  
09 22 03AM 25 information with you? You are in the desert?

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09 22 05AM 1 You're going to be doing a lot of energy work? I  
09 22 08AM 2 think it takes about a gram of salt to hold three  
09 22 12AM 3 grams of water or it may be vice versa? You have a  
09 22 17AM 4 big, big week ahead of you so you have to hydrate?

09 22 20AM 5 That's my question. Do you recall that  
09 22 22AM 6 from Mr. Ray?

09 22 24AM 7 A. Because of all the activity we would be  
09 22 26AM 8 participating in, we would need to hydrate.

09 22 29AM 9 Q. You're in the desert where it's hot;  
09 22 32AM 10 correct?

09 22 32AM 11 A. Correct.

09 22 32AM 12 Q. All the activity throughout the week;  
09 22 34AM 13 correct?

09 22 35AM 14 A. Correct.

09 22 35AM 15 Q. You were issued a backpack. And in that  
09 22 38AM 16 backpack was some salt; correct?

09 22 40AM 17 A. Correct.

09 22 41AM 18 Q. And then you were issued a water bottle;  
09 22 43AM 19 correct?

09 22 44AM 20 A. Correct.

09 22 44AM 21 Q. And you were told to hydrate; correct?

09 22 46AM 22 A. Correct.

09 22 46AM 23 Q. Pardon me?

09 22 47AM 24 A. Correct.

09 22 48AM 25 Q. And that was -- my point is that was in

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09 22 52AM 1 the first few minutes of the very first day,  
 09 22 55AM 2 Sunday, when Mr. Ray made his first presentation;  
 09 22 58AM 3 correct?  
 09 23 01AM 4 **A. As to my recall, yes.**  
 09 23 04AM 5 **Q.** That idea of hydration, then, was a  
 09 23 06AM 6 theme, was it not, throughout the course of the  
 09 23 08AM 7 five-day seminar?  
 09 23 17AM 8 Do you want me to rephrase my question?  
 09 23 19AM 9 Let me make it more simple. You were  
 09 23 22AM 10 told to hydrate continuously throughout the  
 09 23 26AM 11 five-day seminar?  
 09 23 27AM 12 **A. We were.**  
 09 23 27AM 13 **Q.** I understand the Vision Quest was a time  
 09 23 29AM 14 period, and we went through exhibits 170 and 171,  
 09 23 34AM 15 and your knowledge. And you didn't read them, but  
 09 23 37AM 16 the Vision Quest was a time period in which there  
 09 23 39AM 17 would be no water; right? I understand that.  
 09 23 44AM 18 **A. Correct.**  
 09 23 44AM 19 **Q.** My point is other than that, you and the  
 09 23 48AM 20 participants were encouraged to hydrate; correct?  
 09 23 51AM 21 **A. We were.**  
 09 23 51AM 22 **Q.** And I heard one witness describe it as  
 09 23 54AM 23 there were pots of water available to you so that  
 09 23 57AM 24 you could fill up your water bottle. Correct?  
 09 24 00AM 25 **A. There were water containers at the back**  
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09 24 04AM 1 **of the Crystal Hall, and there were water**  
 09 24 06AM 2 **containers in the dinner hall where we would refill**  
 09 24 10AM 3 **our water bottles with.**  
 09 24 12AM 4 **Q.** So there was always water available;  
 09 24 14AM 5 correct?  
 09 24 14AM 6 **A. Except for the Vision Quest.**  
 09 24 15AM 7 **Q.** And you knew, as you described to  
 09 24 17AM 8 Mr. Hughes, because of your trip to the canyon that  
 09 24 20AM 9 was important to hydrate; correct?  
 09 24 22AM 10 **A. Correct.**  
 09 24 23AM 11 **Q.** Now, the very first -- the very first day  
 09 24 33AM 12 do you recall asking Mr. Ray a question, what keeps  
 09 24 37AM 13 your passion alive?  
 09 24 39AM 14 **A. I don't recall.**  
 09 24 41AM 15 **Q.** If you don't hit the goal and you don't  
 09 24 44AM 16 hit the goal and you don't hit the goal and you  
 09 24 45AM 17 don't hit the date, who gives a shit anymore.  
 09 24 46AM 18 Do you recall making a statement like  
 09 24 50AM 19 that?  
 09 24 50AM 20 **A. Yes, I do.**  
 09 24 51AM 21 **Q.** And after that, the next session, a  
 09 25 00AM 22 different session, the individuals in this seminar  
 09 25 00AM 23 were provided a microphone. And they stated their  
 09 25 08AM 24 various intentions that they intended to work on  
 09 25 11AM 25 throughout the course of the seminar; correct?  
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09 25 13AM 1 **A. Correct.**  
 09 25 14AM 2 **Q.** And you stated your intention; correct?  
 09 25 16AM 3 **A. I did.**  
 09 25 17AM 4 **Q.** You said that you're a private person;  
 09 25 19AM 5 correct?  
 09 25 20AM 6 **A. Correct.**  
 09 25 20AM 7 **Q.** Committed here, and we're talking about  
 09 25 23AM 8 the spiritual warrior, to finding my purpose? And  
 09 25 26AM 9 my desire is to do it without giving my power away;  
 09 25 32AM 10 correct?  
 09 25 32AM 11 **A. Correct.**  
 09 25 32AM 12 **Q.** Finding myself, being good to myself, not  
 09 25 35AM 13 allowing others --  
 09 25 36AM 14 **MR. HUGHES:** Objection, Your Honor. Can we  
 09 25 38AM 15 see what counsel is reading from?  
 09 25 41AM 16 **MR. KELLY:** It's cross-examination, Judge.  
 09 25 45AM 17 **MR. HUGHES:** Rule 106.  
 09 25 46AM 18 **THE COURT:** It hasn't necessarily been  
 09 25 48AM 19 introduced. Overruled.  
 09 25 53AM 20 You may continue, Mr. Kelly.  
 09 25 55AM 21 **Q.** BY MR. KELLY: Again, I'm asking you  
 09 25 57AM 22 whether or not you made these statements. It's  
 09 25 59AM 23 been a year and a half; correct?  
 09 26 01AM 24 **A. Yes.**  
 09 26 01AM 25 **Q.** So I don't want to misstate anything. If  
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09 26 04AM 1 you don't recall, let me know.  
 09 26 06AM 2 **A. Okay.**  
 09 26 06AM 3 **Q.** Committed to finding myself, being good  
 09 26 10AM 4 to myself and not allowing others' opinions,  
 09 26 12AM 5 life-styles and comments to bring me down; correct?  
 09 26 15AM 6 **A. Correct.**  
 09 26 15AM 7 **Q.** I need to take care of myself the way I  
 09 26 19AM 8 take care of others; correct?  
 09 26 21AM 9 **A. Correct.**  
 09 26 21AM 10 **Q.** And I'm implying there that as an  
 09 26 24AM 11 orthodontist you take care of other people.  
 09 26 26AM 12 **A. Correct.**  
 09 26 27AM 13 **Q.** And perhaps in your personal life as  
 09 26 28AM 14 well; correct?  
 09 26 29AM 15 **A. Correct.**  
 09 26 30AM 16 **Q.** And then you say, I will not allow him to  
 09 26 33AM 17 manipulate me anymore. I will draw boundaries with  
 09 26 36AM 18 men; correct?  
 09 26 37AM 19 **A. Uh-huh. Yes.**  
 09 26 38AM 20 **Q.** It goes on. I will sacrifice, be happy  
 09 26 44AM 21 alone as opposed to being settled down with the  
 09 26 47AM 22 wrong person for the wrong reasons; correct?  
 09 26 49AM 23 **A. Correct.**  
 09 26 50AM 24 **Q.** I will decrease my job responsibilities  
 09 26 53AM 25 and take better care of myself physically, mentally  
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09 26 56AM 1 and spiritually; collect?

09 26 58AM 2 **A. Correct.**

09 26 58AM 3 **Q.** I'll draw my boundaries and stick to

09 27 01AM 4 them; correct?

09 27 02AM 5 **A. Correct.**

09 27 02AM 6 **Q.** And, Doctor Bunn, it was after making

09 27 04AM 7 that commitment that Mr. Ray said something to the

09 27 10AM 8 effect, I want to work with you directly; correct?

09 27 12AM 9 **A. He chose to be my mentor.**

09 27 15AM 10 **Q.** Yes. So most of these folks, when they

09 27 19AM 11 stood up to state their intentions, would then be

09 27 24AM 12 paired up with various Dream Team members; correct?

09 27 26AM 13 **A. Mr. Ray would make the choice of who**

09 27 30AM 14 **would mentor them.**

09 27 31AM 15 **Q.** But it would be with Dream Team members;

09 27 31AM 16 correct?

09 27 34AM 17 **A. Correct.**

09 27 36AM 18 **Q.** And in your situation you worked directly

09 27 40AM 19 with Mr. Ray; correct?

09 27 40AM 20 **A. Correct.**

09 27 41AM 21 **Q.** And you weren't the only person that

09 27 43AM 22 worked directly with Mr. Ray. But you know for a

09 27 45AM 23 fact that you paired up with him; correct?

09 27 47AM 24 **A. He paired up with me.**

09 27 48AM 25 **Q.** Okay. Well, you didn't -- remember we

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09 27 53AM 1 had this whole discussion about freedom of choice?

09 27 56AM 2 **A. I didn't choose him. He chose me.**

09 27 58AM 3 **Q.** You chose to accept his decision;

09 28 01AM 4 correct?

09 28 01AM 5 **A. After he chose me, I accepted his**

09 28 03AM 6 **decision.**

09 28 15AM 7 **Q.** You told us in a lengthy discussion last

09 28 19AM 8 week on direct examination about Mr. Ray making

09 28 23AM 9 statements to people about cutting their hair.

09 28 26AM 10 Do you recall that discussion?

09 28 27AM 11 **A. I do.**

09 28 28AM 12 **Q.** And you decided on the first day, on

09 28 30AM 13 Sunday, not to cut your hair; correct?

09 28 34AM 14 **A. I didn't have a decision on that day to**

09 28 37AM 15 **make because I wasn't present.**

09 28 42AM 16 **Q.** If I decide to stay, that's a decision I

09 28 45AM 17 make; correct? If I decide to stay here at this

09 28 49AM 18 podium, that's my decision; correct?

09 28 52AM 19 **A. Correct.**

09 28 52AM 20 **Q.** If I decide to leave and leave the

09 28 54AM 21 courtroom, that's my decision; correct?

09 28 56AM 22 **A. Correct.**

09 28 59AM 23 **Q.** If I decide to cut my hair, that's my

09 29 00AM 24 decision; correct?

09 29 00AM 25 **A. I was not asked to cut my hair on Sunday.**

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09 29 03AM 1 **Q.** Answer to my question. If a person

09 29 07AM 2 decides to cut their hair, that's their individual

09 29 10AM 3 choice and their decision; correct? That's yes or

09 29 30AM 4 no.

09 29 31AM 5 **A. No.**

09 29 33AM 6 **Q.** And when you decided not to cut your

09 29 37AM 7 hair, that was your decision; correct?

09 29 38AM 8 **A. I didn't make a decision.**

09 29 42AM 9 **Q.** So you decided -- you were encouraged

09 29 44AM 10 along with others by Mr. Ray. And he said, I got

09 29 51AM 11 all kinds of good stories as to why I don't have to

09 29 55AM 12 cut my hair off. I mean, that is not important to

09 29 57AM 13 my life. See, I could give a shit whether you cut

09 30 00AM 14 your hair off or not because I'm not going to see

09 30 02AM 15 you until it grows back anyway.

09 30 04AM 16 Do you recall him saying that?

09 30 05AM 17 **A. Yes.**

09 30 06AM 18 **Q.** After this week. But I want you to just

09 30 08AM 19 consider it's just hair. And whatever good story

09 30 13AM 20 you've got, the bottom line is you're attached to

09 30 17AM 21 your appearance.

09 30 17AM 22 Do you recall Mr. Ray making that

09 30 19AM 23 statement in regards to people cutting their hair?

09 30 23AM 24 Do you recall that? That's my question. Yes or

09 30 25AM 25 no?

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09 30 26AM 1 **A. He made that statement.**

09 30 29AM 2 **Q.** And after making that statement, you made

09 30 31AM 3 the decision not to cut your hair; correct?

09 30 35AM 4 **A. There wasn't a decision to make because**

09 30 48AM 5 **he's making a statement, but he's not asking me at**

09 30 52AM 6 **that time to cut my hair.**

09 30 54AM 7 **Q.** Do you recall Mr. Ray making a statement

09 30 57AM 8 similar to the one I just read?

09 30 59AM 9 **A. He made the statement. Yes, sir.**

09 31 00AM 10 **Q.** And you told us last week, Dr. Bunn, that

09 31 03AM 11 you struggled with your decision for several days

09 31 07AM 12 and cut your hair immediately or on the day that

09 31 10AM 13 you entered the sweat lodge; correct?

09 31 12AM 14 **A. I did.**

09 31 12AM 15 **Q.** And that was a decision you made;

09 31 14AM 16 correct?

09 31 14AM 17 **A. Yes.**

09 31 15AM 18 **Q.** You made the decision. You thought about

09 31 19AM 19 it. You analyzed it. You struggled with it, in

09 31 22AM 20 your own words. And then you made the decision to

09 31 24AM 21 cut your hair on the day of the sweat lodge.

09 31 28AM 22 Fair statement?

09 31 29AM 23 **A. Fair.**

09 31 31AM 24 **Q.** Pardon me?

09 31 33AM 25 **A. Fair.**

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09 31 33AM 1 Q. On direct examination you told us about  
 09 31 38AM 2 journaling; correct?  
 09 31 40AM 3 A. **Correct.**  
 09 31 41AM 4 Q. And Mr. Ray said that this was your  
 09 31 47AM 5 opportunity to address those intentions that I just  
 09 31 52AM 6 read, to write them down in an effort to help  
 09 31 58AM 7 people solve their own problems; correct?  
 09 32 03AM 8 A. **I think you're mixing two things up.**  
 09 32 08AM 9 Q. Let me break this down for you. You were  
 09 32 10AM 10 encouraged to journal; correct?  
 09 32 11AM 11 A. **Correct.**  
 09 32 12AM 12 Q. You knew that those journal notes were  
 09 32 16AM 13 private; correct?  
 09 32 17AM 14 A. **Correct.**  
 09 32 18AM 15 Q. You were to journal on topics that you  
 09 32 21AM 16 identified as issues in your life; correct?  
 09 32 24AM 17 A. **No.**  
 09 32 28AM 18 Q. You, Dr. Bunn, identified your personal  
 09 32 32AM 19 issues and journaled them; correct?  
 09 32 36AM 20 A. **The topic was how did I learn about sex?**  
 09 32 37AM 21 **Who did I have sex with? What were my sexual**  
 09 32 40AM 22 **experiences? That was what I was told to journal**  
 09 32 41AM 23 **on.**  
 09 32 42AM 24 Q. And you just do everything you're told?  
 09 32 43AM 25 A. **Mr. Ray promised a life-changing**  
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09 32 44AM 1 **experience. And I was told to do what I was doing.**  
 09 32 46AM 2 **And I did so I would actually obtain or achieve**  
 09 32 51AM 3 **what was promised by Mr. Ray if I followed the**  
 09 32 53AM 4 **rules and followed his instructions throughout the**  
 09 32 56AM 5 **event, that I probably could meet what my**  
 09 32 59AM 6 **intentions were, find my purpose and have a**  
 09 33 02AM 7 **life-changing experience.**  
 09 33 03AM 8 Q. And you agreed with me last week that the  
 09 33 06AM 9 transcript of the audiotape of these activities is  
 09 33 11AM 10 more accurate than your memory; correct?  
 09 33 13AM 11 A. **Yes.**  
 09 33 13AM 12 Q. And would you agree with me that when  
 09 33 16AM 13 Mr. Ray was talking about identifying issues, he  
 09 33 20AM 14 was talking about relationships with other people,  
 09 33 23AM 15 which may include sexual relationships; correct?  
 09 33 26AM 16 A. **Correct.**  
 09 33 28AM 17 Q. It wasn't the sum total of this seminar.  
 09 33 29AM 18 It wasn't a sex-relationship seminar; correct?  
 09 33 32AM 19 A. **It was about everything in your life.**  
 09 33 35AM 20 Q. Right. A person may journal or have  
 09 33 38AM 21 issues about being a good father; correct?  
 09 33 41AM 22 A. **From my understanding, we were handed the**  
 09 33 47AM 23 **piece of paper and told to recapitulate. It was**  
 09 33 51AM 24 **about sex. And once we ran out of those stories,**  
 09 33 55AM 25 **it was about loss and death.**  
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09 33 58AM 1 Q. **That was your understanding; correct?**  
 09 34 00AM 2 A. **That was my understanding.**  
 09 34 01AM 3 Q. And you were there and present when other  
 09 34 03AM 4 people stood up, such as Dr. Nell Wagoner, and  
 09 34 06AM 5 stated her intention; correct? You were there;  
 09 34 13AM 6 correct?  
 09 34 13AM 7 A. **I participated in everything. So I was**  
 09 34 15AM 8 **most likely present.**  
 09 34 16AM 9 Q. And you weren't the first one to go. You  
 09 34 18AM 10 remember other folks taking the microphone and  
 09 34 21AM 11 stating their intentions; correct?  
 09 34 23AM 12 A. **I do.**  
 09 34 23AM 13 Q. And their intentions may have been  
 09 34 25AM 14 different than having difficulty with men; correct?  
 09 34 28AM 15 A. **Yes.**  
 09 34 28AM 16 Q. And they may have journaled on something  
 09 34 31AM 17 other than sex; correct?  
 09 34 32AM 18 A. **Correct.**  
 09 34 33AM 19 Q. Now, here's my question: That decision  
 09 34 36AM 20 to journal was your free choice; correct?  
 09 34 39AM 21 A. **It was part of the activity that were**  
 09 34 44AM 22 **instructed to do.**  
 09 34 45AM 23 Q. Well, Mr. Ray didn't look over your  
 09 34 48AM 24 shoulder and make sure that you were writing  
 09 34 50AM 25 something down at 2:30 in the morning; correct?  
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09 34 53AM 1 A. **Mr. Ray didn't come and check on me on**  
 09 34 56AM 2 **the Vision Quest either.**  
 09 34 57AM 3 Q. Exactly. So if you decided to go to the  
 09 35 00AM 4 dining hall and journal with other folks on a  
 09 35 04AM 5 particular topic, that was your decision; correct?  
 09 35 07AM 6 A. **I participated, as instructed by Mr. Ray.**  
 09 35 13AM 7 Q. So if Mr. Ray would have said, Dr. Bunn,  
 09 35 17AM 8 you with a doctoral degree, your own practice in  
 09 35 22AM 9 Dallas, Texas, I want you to climb to the top of  
 09 35 25AM 10 the mountain and dive off, you would have done it?  
 09 35 30AM 11 Is that your testimony, ma'am?  
 09 35 36AM 12 A. **Mr. Ray is supposed to be an expert.**  
 09 35 38AM 13 Q. It's just a yes or no question. I want  
 09 35 43AM 14 this jury to know if that's your interpretation of  
 09 35 47AM 15 my client, that he could force you to climb up on  
 09 35 50AM 16 top of a cliff and dive off head first because  
 09 35 53AM 17 that's what they said they should do in the  
 09 35 58AM 18 seminar.  
 09 35 58AM 19 Would you have done it?  
 09 35 59AM 20 A. **And you're not going to die?**  
 09 36 01AM 21 Q. With a doctoral degree would you have  
 09 36 05AM 22 believed him that you're not going to die, with  
 09 36 07AM 23 your medical background?  
 09 36 10AM 24 A. **I didn't think I was going to die in the**  
 09 36 11AM 25 **sweat lodge --**  
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09 36 12AM **1** Q. And when he asked you to cut your hair on  
 09 36 14AM **2** the first day, you didn't cut it?  
 09 36 15AM **3** A. **I was not present for the hair-cutting**  
 09 36 17AM **4 session on Sunday.**  
 09 36 18AM **5** Q. When you attended the meditation, ma'am,  
 09 36 20AM **6** that was your choice; correct?  
 09 36 22AM **7** A. **Part of what we did in the Crystal Lodge.**  
 09 36 24AM **8** Q. Did you ever meet a Dr. Marzvaan at the  
 09 36 26AM **9** seminar?  
 09 36 28AM **10** A. **Not to my knowledge. We were on a**  
 09 36 30AM **11 first-name basis. I don't know who that doctor**  
 09 36 32AM **12 was.**  
 09 36 34AM **13** Q. I'll probably mispronounce it. Soheyla,  
 09 36 36AM **14** S-o-h-e-y-l-a, Soheyla, Marzvaan. Did you ever  
 09 36 38AM **15** meet her?  
 09 36 40AM **16** A. **If I'm thinking correctly, she may have**  
 09 36 42AM **17 been a dentist from California.**  
 09 36 44AM **18** Q. Did you ever meet Simone Marzvaan, her  
 09 36 46AM **19** sister?  
 09 36 48AM **20** A. **I did.**  
 09 36 50AM **21** Q. Were you aware that the doctor and her  
 09 36 52AM **22** sister exercised their free choice and left the  
 09 36 54AM **23** seminar without participating in any of the  
 09 36 56AM **24** activities?  
 09 36 58AM **25** A. **I realized they were gone after we**  
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09 37 32AM **1** returned from the Vision Quest.  
 09 37 34AM **2** Q. When you went out on the Vision Quest,  
 09 37 36AM **3** you were by yourself; correct?  
 09 37 38AM **4** A. **Correct.**  
 09 37 40AM **5** Q. You were out there without any water or  
 09 37 42AM **6** food; correct?  
 09 37 44AM **7** A. **Correct.**  
 09 37 46AM **8** Q. There was a presentation prior to the  
 09 37 48AM **9** Vision Quest. And during that presentation --  
 09 37 50AM **10** after the presentation you went to eat lunch;  
 09 37 52AM **11** correct?  
 09 37 54AM **12** A. **No, we did not.**  
 09 37 56AM **13** Q. You don't recall a presentation by  
 09 37 58AM **14** Mr. Ray where he's discussing the Vision Quest, and  
 09 38 00AM **15** he says you have about an hour for lunch? Go eat  
 09 38 02AM **16** lunch? You will be picked up at your lodges by a  
 09 38 04AM **17** Dream Team member and taken out to create your  
 09 38 06AM **18** medicine wheel on your Vision Quest?  
 09 38 08AM **19** Do you recall that?  
 09 38 10AM **20** A. **That's not what happened.**  
 09 38 12AM **21** Q. You were taken out by a Dream Team member  
 09 38 14AM **22** in the evening to create your medicine wheel;  
 09 38 16AM **23** correct?  
 09 38 18AM **24** A. **After the Samurai Game, which was a long**  
 09 38 20AM **25** time after lunch.  
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09 38 30AM **1** Q. You ate lunch that day; correct?  
 09 38 32AM **2** A. **I did.**  
 09 38 34AM **3** Q. Before lunch you were told about the  
 09 38 36AM **4** Vision Quest; correct?  
 09 38 38AM **5** A. **Correct.**  
 09 38 40AM **6** Q. After the Samurai Game you went to  
 09 38 42AM **7** dinner?  
 09 38 44AM **8** A. **Correct. Not -- sorry. During the**  
 09 38 46AM **9** Samurai Game.  
 09 38 48AM **10** Q. During the Samurai Game you went to  
 09 38 50AM **11** dinner; correct?  
 09 38 52AM **12** A. **Correct.**  
 09 38 54AM **13** Q. And then you went out and you created  
 09 38 56AM **14** your medicine wheel; correct?  
 09 38 58AM **15** A. **I did.**  
 09 39 00AM **16** Q. And you stayed in your medicine wheel as  
 09 39 02AM **17** instructed; correct?  
 09 39 04AM **18** A. **I did.**  
 09 39 06AM **19** Q. And while you're in you medicine wheel,  
 09 39 08AM **20** your whole medicine wheel was full of red army  
 09 39 10AM **21** ants; correct?  
 09 39 12AM **22** A. **Correct.**  
 09 39 14AM **23** Q. And you had to adapt to that situation.  
 09 39 16AM **24** Fair statement?  
 09 39 18AM **25** A. **Correct.**  
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09 39 14AM **1** Q. You didn't move out of the medicine  
 09 39 16AM **2** wheel, but these red army ants, you said full of  
 09 39 18AM **3** them -- describe that to the jury. How many ants  
 09 39 20AM **4** were in there?  
 09 39 22AM **5** A. **I mean, there was thousands. I had built**  
 09 39 24AM **6** my medicine wheel at midnight or whenever we went  
 09 39 26AM **7** out there. It was dark. I built a medicine wheel.  
 09 39 28AM **8** I closed all the doors as instructed, did  
 09 39 30AM **9** everything I was told to do. And I laid out my  
 09 39 32AM **10** sleeping bag.  
 09 39 34AM **11** And when I woke up in the morning, I  
 09 39 36AM **12** found out that I was -- my medicine wheel was built  
 09 39 38AM **13** around a red ant family.  
 09 39 40AM **14** Q. So there were a ton of them, thousands of  
 09 39 42AM **15** them?  
 09 39 44AM **16** A. **Thousands.**  
 09 39 46AM **17** Q. Any other insects that you observed?  
 09 39 48AM **18** A. **Couple beetles.**  
 09 39 50AM **19** Q. This was October in the desert, Sedona,  
 09 39 52AM **20** Arizona, or outside Sedona, Arizona; correct?  
 09 39 54AM **21** A. **Correct.**  
 09 39 56AM **22** Q. Pretty close to the banks of Oak Creek?  
 09 39 58AM **23** Do you recall that?  
 09 40 00AM **24** A. **I don't know the name of it.**  
 09 40 02AM **25** Q. When you were taken to the location where  
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- 09 40 15AM 1 you made your medicine wheel, how far from the  
 09 40 19AM 2 Angel Valley facility was that, the actual  
 09 40 23AM 3 structures?  
 09 40 25AM 4 **A. Half mile, three quarters of a mile.**  
 09 40 29AM 5 **Q.** You walked out there; correct?  
 09 40 30AM 6 **A. Yes.**  
 09 40 30AM 7 **Q.** And the next morning, then, during  
 09 40 33AM 8 daylight -- not the next morning. 36 hours later a  
 09 40 39AM 9 Dream Team member came and picked you up and you  
 09 40 43AM 10 walked back; correct?  
 09 40 43AM 11 **A. She handed me a note.**  
 09 40 45AM 12 **Q.** Okay. But you walked back; correct?  
 09 40 45AM 13 **A. I did.**  
 09 40 46AM 14 **Q.** And your recollection is it was within a  
 09 40 49AM 15 half mile of the lodge and the Crystal Hall and  
 09 40 51AM 16 those types of structures; correct?  
 09 40 53AM 17 **A. Correct.**  
 09 40 53AM 18 **Q.** Now, you were roommates with Kirby Brown  
 09 40 56AM 19 and another lady; correct?  
 09 40 59AM 20 **A. Correct.**  
 09 40 59AM 21 **Q.** You were in a lodge; correct?  
 09 41 01AM 22 **A. Correct.**  
 09 41 02AM 23 **Q.** When you paid for this seminar, you knew  
 09 41 04AM 24 that that lodge was provided by Angel Valley;  
 09 41 08AM 25 correct?

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- 09 41 08AM 1 **A. Correct.**  
 09 41 08AM 2 **Q.** And the lodge, inside the lodge it was  
 09 41 11AM 3 clean, neat, pretty nice place; correct?  
 09 41 14AM 4 **A. It was fair accommodations.**  
 09 41 17AM 5 **Q.** There weren't any ants in that lodge,  
 09 41 20AM 6 were there?  
 09 41 20AM 7 **A. I didn't spend a lot of time, but I**  
 09 41 23AM 8 **didn't look for insects either.**  
 09 41 26AM 9 **Q.** Okay. Well, when you woke up in the  
 09 41 28AM 10 morning in your medicine wheel, you saw ants;  
 09 41 31AM 11 correct?  
 09 41 31AM 12 **A. Correct.**  
 09 41 31AM 13 **Q.** You didn't see any ants in your lodge;  
 09 41 33AM 14 correct?  
 09 41 33AM 15 **A. I don't recall any ants in the lodge.**  
 09 41 35AM 16 **Q.** You participated and told us something  
 09 41 37AM 17 about a Crystal Hall that you met in; correct?  
 09 41 40AM 18 **A. Correct.**  
 09 41 41AM 19 **Q.** In that Crystal Hall you didn't see any  
 09 41 43AM 20 of those red army ants that you described; correct?  
 09 41 46AM 21 **A. Correct.**  
 09 41 49AM 22 **Q.** There was a dining room as well; correct?  
 09 41 50AM 23 **A. Yes.**  
 09 41 51AM 24 **Q.** And didn't see any ants or any other  
 09 41 53AM 25 insects in the dining hall; correct?

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- 09 41 58AM 1 **A. I wasn't looking for ants.**  
 09 41 58AM 2 **Q.** You weren't looking for ants when you  
 09 42 00AM 3 went in the medicine wheel, but you saw them;  
 09 42 03AM 4 correct?  
 09 42 03AM 5 **A. Correct.**  
 09 42 04AM 6 **Q.** So my question is you didn't see any ants  
 09 42 06AM 7 in the dining hall; correct?  
 09 42 08AM 8 **A. Correct.**  
 09 42 08AM 9 **Q.** And when you entered the sweat lodge on  
 09 42 11AM 10 the final day, it had a sandy bottom; correct?  
 09 42 15AM 11 **A. Correct.**  
 09 42 15AM 12 **Q.** And you didn't see any ants in there;  
 09 42 18AM 13 correct?  
 09 42 18AM 14 **A. I couldn't see anything in there.**  
 09 42 21AM 15 **Q.** And next to the --  
 09 42 23AM 16 Maybe we can publish Exhibit 141.  
 09 42 44AM 17 Dr. Bunn, do you recognize this as an  
 09 42 46AM 18 aerial photograph of Angel Valley?  
 09 42 52AM 19 **A. I don't. I didn't see this part of**  
 09 42 55AM 20 **Angel Valley. So I don't recognize it.**  
 09 42 59AM 21 **Q.** Do you see the sweat lodge?  
 09 43 01AM 22 **A. Yes.**  
 09 43 01AM 23 **Q.** Do you have any reason to doubt that it's  
 09 43 05AM 24 Angel Valley?  
 09 43 10AM 25 **A. Other than the landmark of the sweat**  
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- 09 43 12AM 1 **lodge.**  
 09 43 13AM 2 **Q.** Listen to my question. Do you have any  
 09 43 15AM 3 reason in your mind to doubt that this is a trick  
 09 43 18AM 4 question and that's not Angel Valley?  
 09 43 36AM 5 **A. It looks similar to the sweat lodge that**  
 09 43 39AM 6 **we participated in in Angel Valley.**  
 09 43 43AM 7 **Q.** Now, I asked you whether there were any  
 09 43 46AM 8 ants in the sweat lodge. You said you don't  
 09 43 48AM 9 remember any; correct?  
 09 43 49AM 10 **A. Correct.**  
 09 43 49AM 11 **Q.** And next to the sweat lodge was a  
 09 43 52AM 12 tentlike structure; correct?  
 09 43 53AM 13 **A. Correct.**  
 09 43 54AM 14 **Q.** And you didn't see any ants in there;  
 09 43 56AM 15 correct?  
 09 43 56AM 16 **A. I didn't go in there.**  
 09 43 58AM 17 **Q.** Did you see jugs of water in that  
 09 44 02AM 18 tentlike structure?  
 09 44 04AM 19 **A. I didn't go in there.**  
 09 44 05AM 20 **Q.** It's open towards the sweat lodge. So  
 09 44 08AM 21 I'm asking you a question. I didn't ask you  
 09 44 10AM 22 whether you went in. I asked you whether you saw  
 09 44 12AM 23 those big, orange, white-topped Igloo containers of  
 09 44 18AM 24 water and electrolytes?  
 09 44 18AM 25 **A. I saw one with a label of "electrolytes."**  
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09 44 22AM 1 Q. Did you see cut oranges on a table next  
 09 44 24AM 2 to the jug of electrolytes?  
 09 44 28AM 3 A. I did.  
 09 44 37AM 4 Q. Did you see any ants on the oranges?  
 09 44 40AM 5 A. I did not go examine the oranges.  
 09 44 42AM 6 Q. You didn't see any ants; correct?  
 09 44 46AM 7 A. I did not examine the oranges.  
 09 44 51AM 8 Q. If we can go back to the -- your medicine  
 09 44 56AM 9 wheel. If this is Angel Valley and that's the  
 09 44 58AM 10 sweat lodge, do you recall which direction from the  
 09 45 01AM 11 lodge your medicine wheel was? Downstream?  
 09 45 03AM 12 Upstream? Do you know?  
 09 45 08AM 13 A. I recall walking across a bridge, and I  
 09 45 13AM 14 recall that I was in No. 8. As to north, south,  
 09 45 18AM 15 east or west, I don't recall.  
 09 45 21AM 16 Q. Now, you told us last week about a  
 09 45 24AM 17 conversation before the Vision Quest in which a  
 09 45 26AM 18 lady talked about taking medication while on the  
 09 45 28AM 19 Vision Quest.  
 09 45 31AM 20 Do you recall that conversation with  
 09 45 34AM 21 Mr. Hughes?  
 09 45 37AM 22 A. I do.  
 09 45 40AM 23 Q. You recall your testimony when the lady  
 09 45 43AM 24 said, I have blood pressure medication? Can I take  
 09 45 46AM 25 water with me? James's response was, I don't care  
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09 46 13AM 1 what the "F" you do. No.  
 09 46 16AM 2 Do you recall your testimony?  
 09 46 17AM 3 A. I do recall my testimony.  
 09 46 19AM 4 Q. Is that what you recall?  
 09 46 20AM 5 A. That's not what I said.  
 09 46 21AM 6 Q. What did you say?  
 09 46 22AM 7 A. I recall saying that she asked if she  
 09 46 28AM 8 could take a little bit of water so she could take  
 09 46 32AM 9 her medication. And Mr. Ray asked if she could go  
 09 46 34AM 10 without her medication.  
 09 46 35AM 11 Q. And then what was his response?  
 09 46 37AM 12 A. That was his response.  
 09 46 39AM 13 Q. Did you tell this jury last week James  
 09 46 41AM 14 Ray said I don't care what the "F" you do?  
 09 46 48AM 15 A. And then -- because she asked him three  
 09 46 51AM 16 times.  
 09 46 54AM 17 Q. Okay. Listen to my question. Last  
 09 46 57AM 18 week -- I wrote this down -- you said James Ray  
 09 46 59AM 19 said, I don't care what the fuck you do.  
 09 47 01AM 20 And my question is do you recall making  
 09 47 04AM 21 that statement?  
 09 47 06AM 22 A. I do.  
 09 47 08AM 23 Q. And, in fact, a woman said, I take  
 09 47 10AM 24 medicine. Can I take just enough water just to  
 09 47 14AM 25 take my pills?

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09 47 15AM 1 Mr. Ray said, is that something you  
 09 47 17AM 2 absolutely must take?  
 09 47 18AM 3 The woman says, it's my blood pressure.  
 09 47 20AM 4 And Mr. Ray says, and would it be  
 09 47 23AM 5 detrimental to miss a day and a half?  
 09 47 25AM 6 She says, yeah.  
 09 47 27AM 7 Mr. Ray says can you dry swallow them?  
 09 47 30AM 8 And the woman says, it's big, but I can't  
 09 47 34AM 9 swallow -- dry swallow the little one -- just a  
 09 47 36AM 10 little bit, I know.  
 09 47 37AM 11 And here's Mr. Ray's response: All  
 09 47 39AM 12 right. Yeah. I mean, if it's something you must  
 09 47 41AM 13 take and it's going to be detrimental if you don't  
 09 47 44AM 14 for a day, then yeah. I mean, sure.  
 09 47 50AM 15 Now, this audiotape that we talked about  
 09 47 52AM 16 you agreed with me is more accurate than your  
 09 47 55AM 17 recollection from a year and a half ago; correct?  
 09 47 57AM 18 A. Correct.  
 09 47 58AM 19 Q. I didn't see or hear any profanity in  
 09 48 01AM 20 that response; correct?  
 09 48 02AM 21 A. Correct.  
 09 48 02AM 22 Q. So do you think, Dr. Bunn, you may have  
 09 48 06AM 23 exaggerated Mr. Ray's response a little?  
 09 48 07AM 24 A. I may have misquoted him. Yes.  
 09 48 15AM 25 Q. In fact, just prior to that conversation  
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09 48 19AM 1 do you recall a woman asking whether she could take  
 09 48 23AM 2 lip balm; and she said, I have really dry lips, and  
 09 48 26AM 3 I get sores if they're dry? I'm just asking? I'll  
 09 48 29AM 4 do without water? But really, really, really, I  
 09 48 32AM 5 want lip balm?  
 09 48 35AM 6 Do you recall that discussion?  
 09 48 35AM 7 A. I do.  
 09 48 36AM 8 Q. Mr. Ray said, okay. Do you recall that?  
 09 48 40AM 9 A. I do.  
 09 48 41AM 10 Q. Again, that's no profanity; correct?  
 09 48 44AM 11 A. Correct.  
 09 48 50AM 12 Q. You told us on direct a conversation that  
 09 49 04AM 13 Mr. Ray had with a lady who did not participate in  
 09 49 08AM 14 yoga. Do you recall that?  
 09 49 10AM 15 A. I do.  
 09 49 10AM 16 Q. And the actual comments from Mr. Ray was,  
 09 49 15AM 17 it you recall, 7:00 a.m. in the heart pavilion,  
 09 49 20AM 18 yoga tomorrow. It's not an option. My  
 09 49 22AM 19 understanding was that one of you did not show up  
 09 49 25AM 20 this morning.  
 09 49 27AM 21 Do you recall that discussion?  
 09 49 28AM 22 A. I do.  
 09 49 29AM 23 Q. And his response: Please, please, please  
 09 49 32AM 24 do not let me find out who that is. Because you  
 09 49 35AM 25 need to be there. You must be there. You will

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09:49:38AM 1 thank me when you do. Energy is stored at the  
 09:49:41AM 2 cellular level and in your muscles. And you've got  
 09:49:45AM 3 to move that through. You must move it through.  
 09:50:00AM 4 Now, Doctor, do you recall that as a more  
 09:50:05AM 5 accurate recollection of Mr. Ray's response when a  
 09:50:10AM 6 lady did not show up for yoga?  
 09:50:15AM 7 **A. Why don't you read what he said when he**  
 09:50:20AM 8 **found out who it was.**  
 09:50:25AM 9 **Q.** I asked you a very specific question, and  
 09:50:30AM 10 it's asking for a yes or no answer. Do you recall  
 09:50:35AM 11 that as being a more accurate response to the lady  
 09:50:40AM 12 who did not show up for yoga?  
 09:50:45AM 13 **A. My statement was pertaining to the way**  
 09:50:50AM 14 **that he spoke to her when he found out who it was.**  
 09:50:55AM 15 **Q.** Now, before you went into the sweat  
 09:51:00AM 16 lodge, there was a meeting with Mr. Ray; correct?  
 09:51:05AM 17 A presentation; correct?  
 09:51:10AM 18 **A. There was presentation Monday, Tuesday,**  
 09:51:15AM 19 **Wednesday, Thursday.**  
 09:51:20AM 20 **Q.** Before you went into the sweat lodge,  
 09:51:25AM 21 there was a presentation put on by Mr. Ray;  
 09:51:30AM 22 correct?  
 09:51:35AM 23 **A. What time are you specifically speaking**  
 09:51:40AM 24 **about?**  
 09:51:45AM 25 **Q.** Half hour before you went into the sweat  
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09:51:20AM 1 lodge or so.  
 09:51:25AM 2 **A. He talked about it inside the Crystal**  
 09:51:30AM 3 **Hall, and then we all met outside the sweat lodge**  
 09:51:35AM 4 **after we had gone to change.**  
 09:51:40AM 5 **Q.** There was a presentation Thursday morning  
 09:51:45AM 6 for 56 minutes and 21 seconds by Mr. Ray; correct?  
 09:51:50AM 7 **A. At what time?**  
 09:51:55AM 8 **Q.** In the morning. Correct?  
 09:52:00AM 9 Your Honor, I'd ask the witness to  
 09:52:05AM 10 respond yes or no.  
 09:52:10AM 11 THE COURT: If the question can be answered in  
 09:52:15AM 12 that fashion, Dr. Bunn, yes or no, that's the way  
 09:52:20AM 13 to answer it. If it cannot be answered yes or no,  
 09:52:25AM 14 you can say that as well.  
 09:52:30AM 15 THE WITNESS: I cannot answer that.  
 09:52:35AM 16 **Q. BY MR. KELLY:** Is it you don't remember  
 09:52:40AM 17 there was an approximate one-hour meeting Thursday  
 09:52:45AM 18 morning, October 8, 2009, before you went into the  
 09:52:50AM 19 sweat lodge? Is that your testimony?  
 09:52:55AM 20 **A. He spoke from 8:30 --**  
 09:53:00AM 21 **Q.** It's a yes or no.  
 09:53:05AM 22 **A. Can you repeat the question.**  
 09:53:10AM 23 **Q.** Is it your testimony that there was not a  
 09:53:15AM 24 one-hour presentation Thursday morning put on by  
 09:53:20AM 25 Mr. Ray which was approximately one hour in length  
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09:52:48AM 1 before you went into the sweat lodge?  
 09:52:51AM 2 **A. Mr. Ray spoke for six hours before going**  
 09:53:01AM 3 **into the sweat lodge.**  
 09:53:03AM 4 **Q.** And then there was an almost three-hour  
 09:53:08AM 5 presentation Thursday afternoon before you went  
 09:53:12AM 6 into the sweat lodge; correct?  
 09:53:13AM 7 **A. Correct.**  
 09:53:14AM 8 **Q.** Two hours, 57 minutes and 23 seconds. My  
 09:53:20AM 9 question simply is during that presentation,  
 09:53:23AM 10 Dr. Bunn, do you recall Mr. Ray telling you that  
 09:53:29AM 11 it's going to be hot, hot as hell? You're going to  
 09:53:33AM 12 feel like your skin is splitting?  
 09:53:35AM 13 Do you recall Mr. Ray making statements  
 09:53:38AM 14 to that effect?  
 09:53:39AM 15 **A. I do.**  
 09:53:40AM 16 **Q.** Do you recall him making statements  
 09:53:46AM 17 during that presentation prior to going into the  
 09:53:49AM 18 sweat lodge, using death as a metaphor?  
 09:53:58AM 19 I'm going to strike that question.  
 09:54:00AM 20 Do you recall the specific statement from  
 09:54:03AM 21 Mr. Ray? And symbolically what you're going to do  
 09:54:06AM 22 is to die to all that shit and all the limitations  
 09:54:10AM 23 and all the stories and all the things that you've  
 09:54:13AM 24 allowed to be your truth and have caused you to  
 09:54:15AM 25 sell yourself short. And it's such a great  
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09:54:18AM 1 metaphor.  
 09:54:19AM 2 You know, if you've been on this journey  
 09:54:21AM 3 with me for any amount of time, you know there's  
 09:54:24AM 4 all kinds of physical metaphors. And that's  
 09:54:27AM 5 probably nothing greater than the lodge, my lodge.  
 09:54:29AM 6 Because at some point in time you just have to let  
 09:54:31AM 7 go and say if I'm going to die, it's okay. Because  
 09:54:34AM 8 I don't ever die. Not really. My body dies. I  
 09:54:37AM 9 don't die.  
 09:54:38AM 10 You most likely will feel like your skin  
 09:54:41AM 11 is going to fall off your body. It's hot,  
 09:54:41AM 12 hellaciously hot.  
 09:54:45AM 13 Do you recall a statement to that effect  
 09:54:46AM 14 by Mr. Ray before you went in the sweat lodge?  
 09:54:49AM 15 **A. I do.**  
 09:54:49AM 16 **Q.** Then do you recall Mr. Ray telling you  
 09:54:52AM 17 how to get out of the sweat lodge if you couldn't  
 09:54:54AM 18 handle it?  
 09:54:58AM 19 **A. I don't.**  
 09:55:02AM 20 **Q.** Do you recall this statement? If -- and  
 09:55:03AM 21 I'm not saying this intention, but I'm just going  
 09:55:06AM 22 to tell you. One of my teachers taught me a long  
 09:55:10AM 23 time ago prepare for the worst. Expect the best.  
 09:55:13AM 24 So my expectation -- because I know what  
 09:55:15AM 25 you can do. My expectation is that you're going to  
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09 55 19AM 1 go through this like a Samurai and you're going to  
 09 55 21AM 2 overcome whatever is going on in your head or  
 09 55 24AM 3 whatever else. You're going to transcend that, and  
 09 55 26AM 4 it's going to show you. It's going to give you a  
 09 55 28AM 5 very powerful reference of what you're capable of  
 09 55 30AM 6 doing, what you're really capable of doing.

09 55 35AM 7 Now, that being said, if you just get to  
 09 55 38AM 8 the point where you just -- you just you've got to  
 09 55 43AM 9 leave, you just feel like you cannot, then a couple  
 09 55 46AM 10 of things is that please remember, this is  
 09 55 50AM 11 extremely hot in the center. And many of you are  
 09 55 54AM 12 going to be close to that. Now, it's a sacred  
 09 55 57AM 13 temple, and you only move what way?

09 56 00AM 14 And the audience responded, clockwise.

09 56 03AM 15 Do you recall that?

09 56 03AM 16 **A. I do.**

09 56 04AM 17 **Q.** And he says, clockwise. So if you have  
 09 56 08AM 18 to leave, then you need to, and you're right here,  
 09 56 11AM 19 you can't duck out this way. You have to go all  
 09 56 15AM 20 the way around and go out the lodge.

09 56 17AM 21 And you cannot leave during a round. If  
 09 56 19AM 22 you have -- you feel like you just cannot transcend  
 09 56 22AM 23 and overcome this, then when the gates are open, if  
 09 56 25AM 24 you have to leave, you leave, and you leave in a  
 09 56 27AM 25 very controlled manner very carefully.

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09 56 28AM 1 Because there is legs, and it's dark, and  
 09 56 31AM 2 there is legs, and there is knees, and there is  
 09 56 33AM 3 elbows. And you know the last thing we want is  
 09 56 35AM 4 anybody in the pit.

09 56 37AM 5 Do you recall Mr. Ray providing those  
 09 56 39AM 6 warnings about how to leave before you entered the  
 09 56 42AM 7 sweat lodge?

09 56 42AM 8 **A. I do.**

09 56 43AM 9 **Q.** Now, at that point in time, Doctor,  
 09 56 53AM 10 people --

09 56 54AM 11 And we can put up on the overhead  
 09 56 56AM 12 Exhibit 143.

09 57 04AM 13 May I approach the witness?

09 57 06AM 14 THE COURT: Yes.

09 57 07AM 15 **Q.** BY MR. KELLY: Sometimes, Doctor, the  
 09 57 09AM 16 photographs are a little easier to see. Can you  
 09 57 16AM 17 identify yourself in 143?

09 58 03AM 18 **A. I don't see myself there.**

09 58 07AM 19 **Q.** Does Exhibit 143 look to you to be very  
 09 58 11AM 20 similar in the manner in which the people you were  
 09 58 14AM 21 with entered the sweat lodge on October 8, 2009?

09 58 14AM 22 **A. Can you repeat the question again.**

09 58 24AM 23 **Q.** Does this look like what happened? You  
 09 58 27AM 24 went into the sweat lodge with these people?

09 58 34AM 25 **A. This is the similar way we entered the**  
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09 58 37AM 1 **sweat lodge.**

09 58 38AM 2 **Q.** Sorry. We got this photograph from the  
 09 58 41AM 3 government, so we're assuming it's correct.

09 58 45AM 4 Do you have any reason to believe that  
 09 58 48AM 5 this is not an accurate depiction showing people  
 09 58 51AM 6 going into the sweat lodge back on October 8?

09 58 54AM 7 Your Honor, I'll strike the question if  
 09 58 58AM 8 the witness isn't able to answer the question.

09 59 38AM 9 Dr. Bunn, here is the deal: James Ray  
 09 59 41AM 10 met with you before you went in the sweat lodge;  
 09 59 44AM 11 correct?

09 59 45AM 12 **A. Me personally?**

09 59 46AM 13 **Q.** You and everyone else who participated.  
 09 59 48AM 14 Correct?

09 59 49AM 15 **A. Correct.**

09 59 50AM 16 **Q.** During that meeting he said it was going  
 09 59 52AM 17 to be hot, hellacious hot; correct?

09 59 54AM 18 **A. Correct.**

09 59 55AM 19 **Q.** Used death as a metaphor; correct?

09 59 57AM 20 **A. Correct.**

09 59 57AM 21 **Q.** And he instructed folks on how to get out  
 10 00 01AM 22 of the sweat lodge; correct?

10 00 02AM 23 **A. He told us when we could leave.**

10 00 06AM 24 **Q.** He told you --

10 00 06AM 25 **A. When and how.**

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10 00 07AM 1 **Q.** And he told you to go up to your rooms,  
 10 00 10AM 2 change your clothes and get ready to go into the  
 10 00 12AM 3 sweat lodge; correct?

10 00 13AM 4 **A. Correct.**

10 00 14AM 5 **Q.** He said, bring your water bottles back  
 10 00 16AM 6 and leave them on a table outside the sweat lodge;  
 10 00 19AM 7 correct?

10 00 19AM 8 **A. Correct.**

10 00 19AM 9 **Q.** So that when you got out of the sweat  
 10 00 21AM 10 lodge, your water would be there; correct?

10 00 23AM 11 **A. Correct.**

10 00 23AM 12 **Q.** And you already told us there was  
 10 00 24AM 13 water -- excuse me. You already told us there were  
 10 00 27AM 14 electrolytes in the tent, which you can see on 143,  
 10 00 30AM 15 is on the left portion of the photograph; correct?

10 00 32AM 16 **A. Correct.**

10 00 33AM 17 **Q.** And you told us that you had been  
 10 00 36AM 18 hydrating all week; correct?

10 00 38AM 19 **A. Yes.**

10 00 38AM 20 **Q.** You had your water bottle with you, I  
 10 00 41AM 21 take it; correct?

10 00 42AM 22 **A. When I went to the sweat lodge?**

10 00 45AM 23 **Q.** Just between the presentation and when  
 10 00 47AM 24 you went to the sweat lodge, did you have your  
 10 00 50AM 25 water bottle?

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10 00 52AM 1 A. I did.

10 00 52AM 2 Q. Full of drinking water?

10 00 54AM 3 A. I did.

10 00 54AM 4 Q. You knew that it was important because of

10 00 54AM 5 the Grand Canyon experience is what you told us?

10 00 58AM 6 A. Correct.

10 00 59AM 7 Q. And came back down, you got in this line

10 01 06AM 8 and you entered the sweat lodge; correct?

10 01 11AM 9 A. We did a few things before lining up to

10 01 15AM 10 go in the sweat lodge.

10 01 16AM 11 Q. What I don't see, Doctor, is I don't see

10 01 19AM 12 James Ray pushing anyone into sweat lodge in this

10 01 22AM 13 photograph. Do you?

10 01 26AM 14 A. Mr. Ray said he was going to

10 01 28AM 15 participate -- he's the first one in the sweat

10 01 30AM 16 lodge.

10 01 30AM 17 Q. I'm going to rephrase the question. On

10 01 34AM 18 Exhibit 143 show me the person that James Ray is

10 01 38AM 19 pushing into the sweat lodge.

10 01 39AM 20 A. James Ray is not in the picture.

10 01 41AM 21 Q. Doesn't exist, does it, Dr. Bunn? No one

10 01 45AM 22 in that photograph is being pushed in the sweat

10 01 47AM 23 lodge; correct?

10 01 47AM 24 A. Correct.

10 01 48AM 25 Q. I don't see anyone being drug into the

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10 01 50AM 1 sweat lodge. Correct?

10 01 51AM 2 A. Just drug out.

10 01 53AM 3 Q. Your Honor, I'd ask that response be

10 01 56AM 4 stricken and the jury not consider it.

10 01 58AM 5 THE COURT: It will be. It is.

10 02 00AM 6 Q. BY MR. KELLY: You don't see anyone in a

10 02 02AM 7 head lock being drug into the sweat lodge, do you?

10 02 05AM 8 A. No.

10 02 05AM 9 Q. I have a question for you, Doctor. You

10 02 07AM 10 told me last Friday that you went to the Grand

10 02 13AM 11 Canyon in September of 2010; correct?

10 02 15AM 12 A. Correct.

10 02 16AM 13 Q. So you would not have had that knowledge

10 02 19AM 14 in October of 2009; correct?

10 02 22AM 15 A. Correct.

10 02 23AM 16 Q. So is that also an exaggeration, ma'am?

10 02 27AM 17 A. You asked me when I went in the Grand

10 02 31AM 18 Canyon, and I told you. I didn't say I went there

10 02 33AM 19 and had the knowledge.

10 02 34AM 20 Q. Were you testifying under oath when

10 02 36AM 21 Mr. Hughes asked you questions about your knowledge

10 02 36AM 22 regarding the heat on the human body?

10 02 44AM 23 MR. HUGHES: Your Honor, the question

10 02 45AM 24 mischaracterizes the testimony from Friday.

10 02 53AM 25 MR. KELLY: I can rephrase.

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10 02 54AM 1 THE COURT: Go ahead.

10 02 57AM 2 Q. BY MR. KELLY: Do you recall your

10 02 58AM 3 testimony on direct?

10 02 58AM 4 A. I do.

10 02 59AM 5 Q. Do you recall telling Mr. Hughes you were

10 03 01AM 6 aware of the effect of heat on the human body

10 03 04AM 7 because you hiked the Grand Canyon?

10 03 06AM 8 A. I did.

10 03 06AM 9 Q. And you remember telling me you hiked the

10 03 08AM 10 Grand Canyon 10 months after the sweat lodge?

10 03 11AM 11 A. I did.

10 03 15AM 12 Q. Now, you told us that after you entered

10 03 18AM 13 the sweat lodge --

10 04 01AM 14 MR. KELLY: Your Honor, I believe we have an

10 04 03AM 15 agreement to admit Exhibit 326.

10 04 06AM 16 THE COURT: 326 is admitted.

10 04 08AM 17 (Exhibit 326 admitted.)

10 04 08AM 18 MR. KELLY: Can we publish it?

10 04 11AM 19 THE COURT: Yes, you may.

10 04 13AM 20 Q. BY MR. KELLY: Dr. Bunn, 326. Do you

10 04 16AM 21 recognize that as the interior of the sweat lodge?

10 04 19AM 22 MR. HUGHES: Object as foundation as to what

10 04 21AM 23 time of the interior.

10 04 25AM 24 MR. KELLY: He stipulated to the admission.

10 04 27AM 25 THE COURT: Overruled.

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10 04 29AM 1 If it can be answered, it may.

10 04 32AM 2 Q. BY MR. KELLY: Dr. Bunn, do you recognize

10 04 34AM 3 that as a photograph of the inside of the sweat

10 04 36AM 4 lodge?

10 04 38AM 5 A. I do not.

10 04 40AM 6 Q. Is that because of Mr. Hughes' objection?

10 04 46AM 7 A. No. It's because I remember everything

10 04 50AM 8 being more of a blue-green color. Nothing was as

10 04 54AM 9 transparent as that. Looks like this structure is

10 04 56AM 10 a little bit higher. I don't recall these colors.

10 05 00AM 11 Q. If Detective Diskin, who is this fellow

10 05 03AM 12 right here, was the person who took that photograph

10 05 06AM 13 back on October 8, 2009, your recollection is that

10 05 11AM 14 that's not the sweat lodge; correct?

10 05 12AM 15 A. That doesn't look like what I recall.

10 05 16AM 16 Q. I understand. It's been a year and a

10 05 18AM 17 half, and you don't recall everything clearly;

10 05 20AM 18 correct?

10 05 20AM 19 A. Correct.

10 05 20AM 20 Q. We started in fact --

10 05 23AM 21 Detective Willingham encouraged you to seek a

10 05 26AM 22 counselor because you were emotionally caught up

10 05 28AM 23 with what took place. Do you recall that?

10 05 30AM 24 A. I do.

10 05 32AM 25 Q. Assume just for a moment this is a sweat

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10 05 34AM 1 lodge similar to the one you entered. When folks  
 10 05 37AM 2 went in there, they had their tobacco pouches on;  
 10 05 42AM 3 correct?  
 10 05 42AM 4 **A. Correct.**  
 10 05 45AM 5 **Q.** And each person had seven tobacco  
 10 05 45AM 6 pouches; correct?  
 10 05 45AM 7 **A. Correct.**  
 10 05 46AM 8 **Q.** Each tobacco pouch represented an issue  
 10 05 49AM 9 that that person was working through; correct?  
 10 05 52AM 10 **A. No, it did not.**  
 10 05 54AM 11 **Q.** What did yours represent?  
 10 05 58AM 12 **A. It was -- you had an intention, and then**  
 10 06 04AM 13 **it was like a different level, like part of it had**  
 10 06 07AM 14 **to do with giving -- where were you in your heart?**  
 10 06 11AM 15 **Where were you in your actions? Where were you in**  
 10 06 13AM 16 **your conscious mind? Where were you in your**  
 10 06 16AM 17 **unconscious mind? Where are you in your God or**  
 10 06 18AM 18 **spiritual relationship with a higher power? Each**  
 10 06 22AM 19 **pouch represented something different.**  
 10 06 23AM 20 **Q.** And there were seven pouches; correct?  
 10 06 25AM 21 **A. Correct.**  
 10 06 26AM 22 **Q.** Each represented something different;  
 10 06 28AM 23 correct?  
 10 06 28AM 24 **A. Correct.**  
 10 06 28AM 25 **Q.** And you were instructed that when you  
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10 06 30AM 1 entered into the sweat lodge, you would then sit  
 10 06 35AM 2 down and tie the tobacco pouch and its string above  
 10 06 42AM 3 you; correct?  
 10 06 43AM 4 **A. Yes.**  
 10 06 45AM 5 **Q.** So is it your recollection -- let me ask  
 10 06 51AM 6 you, what did you do with yours?  
 10 06 53AM 7 **A. Mine stayed in the sweat lodge. When I**  
 10 06 59AM 8 **moved, I didn't take it with me.**  
 10 07 01AM 9 **Q.** That's a poor question. I apologize.  
 10 07 03AM 10 When you entered the sweat lodge and you sat down,  
 10 07 06AM 11 what did you do with your tobacco pouches?  
 10 07 09AM 12 **A. I hung it in front of me.**  
 10 07 10AM 13 **Q.** Straight in front of you? Pretty close;  
 10 07 13AM 14 correct?  
 10 07 13AM 15 **A. That's what I -- if the branch was a**  
 10 07 17AM 16 **little bit to the side -- I'm not quite sure if it**  
 10 07 21AM 17 **was right in front or a little to the left or**  
 10 07 22AM 18 **right.**  
 10 07 22AM 19 **Q.** If I was seated right here, then I'd  
 10 07 25AM 20 reach up here someplace I could reach; correct?  
 10 07 28AM 21 **A. You're supposed to hang it.**  
 10 07 30AM 22 **Q.** And, to your recollection, everyone was  
 10 07 32AM 23 doing that; correct?  
 10 07 33AM 24 **A. That's what --**  
 10 07 35AM 25 **Q.** I'm going to rephrase my question. Did  
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10 07 37AM 1 you see anybody else putting their tobacco pouches  
 10 07 40AM 2 up?  
 10 07 41AM 3 **A. Yes, I did.**  
 10 07 41AM 4 **Q.** And were people hanging their tobacco  
 10 07 45AM 5 pouch in a fashion similar to the way you hung  
 10 07 47AM 6 yours?  
 10 07 49AM 7 **A. It appeared to be so.**  
 10 07 52AM 8 **Q.** And when you went in, you noticed where  
 10 07 58AM 9 Kirby Brown was; correct?  
 10 08 00AM 10 **A. I did.**  
 10 08 00AM 11 **Q.** And you told us on direct examination  
 10 08 02AM 12 that she was in the outside -- on the outside ring  
 10 08 05AM 13 of the sweat lodge; correct?  
 10 08 09AM 14 **A. Yes, she was.**  
 10 08 10AM 15 **Q.** And so -- and I realize that you don't  
 10 08 13AM 16 recognize this particular photograph, which is  
 10 08 22AM 17 Exhibit 326, I believe. But as an example, Kirby,  
 10 08 28AM 18 then, would be in an area close to the wall;  
 10 08 33AM 19 correct?  
 10 08 33AM 20 **A. Correct.**  
 10 08 34AM 21 **Q.** And if she were to reach then and hang  
 10 08 37AM 22 her tobacco pouch, it would be above her head;  
 10 08 41AM 23 correct? Correct?  
 10 08 47AM 24 **A. We were told to put it in front of us.**  
 10 08 50AM 25 **Q.** Right. Just like you just described,  
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10 08 55AM 1 Dr. Bunn; correct?  
 10 08 58AM 2 **A. Correct.**  
 10 08 57AM 3 **Q.** Let's look at Exhibit 325. This was your  
 10 09 00AM 4 testimony on direct. Those are tobacco pouches;  
 10 09 07AM 5 correct?  
 10 09 07AM 6 **A. Correct.**  
 10 09 09AM 7 **Q.** There are more than seven; correct?  
 10 09 11AM 8 **A. It's hard to tell because she decorated**  
 10 09 17AM 9 **it so fancy.**  
 10 09 18AM 10 **Q.** Not next to the edge, is it?  
 10 09 28AM 11 **A. You can't tell from the photograph.**  
 10 09 36AM 12 MR. KELLY: May I approach the witness?  
 10 09 38AM 13 THE COURT: Yes.  
 10 09 39AM 14 **Q.** BY MR. KELLY: Like I said, when it gets  
 10 09 41AM 15 blown up, it's harder to see. Go ahead and take a  
 10 09 44AM 16 look at Exhibit 325. And I ask you the same  
 10 09 47AM 17 question. It's true, is it not, that there is more  
 10 09 50AM 18 than seven pouches on that string; correct? Yes or  
 10 09 53AM 19 no?  
 10 09 55AM 20 **A. I can't tell.**  
 10 09 58AM 21 **Q.** If we can get the -- and it's true that  
 10 10 07AM 22 that string of pouches is not hanging next to the  
 10 10 11AM 23 exterior wall of the sweat lodge; correct?  
 10 10 15AM 24 **A. I have to confirm that.**  
 10 10 18AM 25 **Q.** In fact, Dr. Bunn, this could simply be  
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10 10 22AM 1 another exaggeration or inability to remember  
 10 10 25AM 2 exactly what happened 18 months ago; correct?  
 10 10 28AM 3 MR. HUGHES: Object. Compound and it's  
 10 10 31AM 4 argumentative.  
 10 10 34AM 5 MR. KELLY: I'll rephrase.  
 10 10 36AM 6 THE COURT: Go ahead.  
 10 10 38AM 7 Q. BY MR. KELLY: And, Dr. Bunn, this would  
 10 10 41AM 8 be an exaggeration of what happened a year and a  
 10 10 44AM 9 half ago?  
 10 10 47AM 10 MR. HUGHES: Objection. Argumentative.  
 10 10 50AM 11 THE COURT: Overruled.  
 10 10 53AM 12 You may answer that if you can.  
 10 10 56AM 13 THE WITNESS: Can you repeat the question.  
 10 10 59AM 14 Q. BY MR. KELLY: Do you recall, Dr. Bunn,  
 10 11 02AM 15 telling the detective that you feel like you're the  
 10 11 05AM 16 bullet in the gun that's going to shoot James Ray?  
 10 11 08AM 17 A. No, I do not.  
 10 11 11AM 18 Q. You do recall that you were the very  
 10 11 14AM 19 first participant to go to the media; correct?  
 10 11 17AM 20 A. Correct.  
 10 11 20AM 21 Q. You went on CNN before anyone else;  
 10 11 23AM 22 correct? Correct?  
 10 11 26AM 23 A. I was on CNN. Yes.  
 10 11 29AM 24 Q. You went to CNN on October 22nd; correct?  
 10 11 32AM 25 A. 21st or 22nd.  
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10 11 35AM 1 Q. Then you went on Anderson Cooper on  
 10 11 38AM 2 October 23rd; correct?  
 10 11 41AM 3 A. Correct.  
 10 11 44AM 4 Q. October 28, 2009, you went on CBS with  
 10 11 47AM 5 Harry Smith; correct?  
 10 11 50AM 6 A. Correct.  
 10 11 53AM 7 Q. On October 29 you were on broadcast media  
 10 11 56AM 8 interview; correct?  
 10 11 59AM 9 A. I don't remember that one.  
 10 12 02AM 10 Q. On February 4, 2010, you were on Good  
 10 12 05AM 11 Morning America; correct?  
 10 12 08AM 12 A. Repeat the date.  
 10 12 11AM 13 Q. February 4, 2010.  
 10 12 14AM 14 A. I may have spoken with them.  
 10 12 17AM 15 Q. You remember the day my client was  
 10 12 20AM 16 indicted for manslaughter; correct?  
 10 12 23AM 17 A. I do.  
 10 12 26AM 18 Q. Because on that day you made the  
 10 12 29AM 19 statement, it's kind of like I can't believe it.  
 10 12 32AM 20 There is excitement and there is relief and there  
 10 12 35AM 21 is anger; correct?  
 10 12 38AM 22 A. Correct.  
 10 12 41AM 23 Q. Now, I asked you a question whether or  
 10 12 44AM 24 not you made a statement to Detective Willingham  
 10 12 47AM 25 back on October 15, 2009. Do you recall that  
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10 12 50AM 1 interview?  
 10 12 53AM 2 A. I do.  
 10 12 56AM 3 MR. KELLY: May I approach, Judge?  
 10 13 00AM 4 THE COURT: You may.  
 10 13 03AM 5 Q. BY MR. KELLY: Dr. Bunn, I'm handing you  
 10 13 06AM 6 what's been marked for identification as 617. Ask  
 10 13 09AM 7 you to turn to page 40, read line 16 through 19 to  
 10 13 12AM 8 yourself.  
 10 13 15AM 9 And I'm going to ask you a question.  
 10 13 18AM 10 Have you had a chance to read that?  
 10 13 21AM 11 Have you had a chance to read that?  
 10 13 24AM 12 A. I'm rereading it.  
 10 13 27AM 13 Q. Doctor, your statement to the detective  
 10 13 30AM 14 was, I kind of feel like I'm a bullet in the gun.  
 10 13 33AM 15 Because I feel like I have so much recall of  
 10 13 36AM 16 people, of the situation, of where the assistants  
 10 13 39AM 17 were, what the help was, what was going on. But I  
 10 13 42AM 18 don't know if anybody else is talking.  
 10 13 45AM 19 Did you make that statement to the  
 10 13 48AM 20 detective or do you recall making that statement to  
 10 13 51AM 21 the detective?  
 10 13 54AM 22 MR. HUGHES: Objection pursuant to Rule 106.  
 10 13 57AM 23 I ask the portion from line 10 down through 19 be  
 10 14 00AM 24 read on the transcript to provide appropriate  
 10 14 03AM 25 context.  
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10 14 06AM 1 MR. KELLY: Judge, he can do it on redirect.  
 10 14 09AM 2 THE COURT: Overruled.  
 10 14 12AM 3 Q. BY MR. KELLY: Is that accurately word  
 10 14 15AM 4 for word -- do you remember saying that to the  
 10 14 18AM 5 detective is my question?  
 10 14 21AM 6 A. She recorded the conversation, so I would  
 10 14 24AM 7 say that this is probably correct.  
 10 14 27AM 8 Q. And also I missed one. You went on  
 10 14 30AM 9 Dateline on June 11, 2010; correct?  
 10 14 33AM 10 A. That was filmed much earlier.  
 10 14 36AM 11 Q. Well, maybe that was the date it was  
 10 14 39AM 12 shown. Also shown during that session was Amayra  
 10 14 42AM 13 Hamilton and her discussion; correct?  
 10 14 45AM 14 A. Correct.  
 10 14 48AM 15 Q. Now, here's my question, Dr. Bunn: Do  
 10 14 51AM 16 you recall telling Detective Willingham in that  
 10 14 54AM 17 interview that the person you really need to talk  
 10 14 57AM 18 to is Dr. Jeanne Armstrong because she's very  
 10 15 00AM 19 coherent?  
 10 15 03AM 20 A. In this interview.  
 10 15 06AM 21 Q. Yes, ma'am. If you need to refresh your  
 10 15 09AM 22 recollection, it's page 49, lines 6 to 7.  
 10 15 12AM 23 A. Correct.  
 10 15 15AM 24 Q. You met Dr. Armstrong during the seminar;  
 10 15 18AM 25 correct?  
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10 16 44AM 1 A. **Correct.**

10 16 45AM 2 Q. Got to know her a little bit; correct?

10 16 48AM 3 A. **I did not.**

10 16 51AM 4 Q. Pardon me?

10 16 52AM 5 A. **I did not.**

10 16 50AM 6 Q. Do you recall telling

10 16 53AM 7 Detective Willingham that you really need to talk

10 16 55AM 8 to Dr. Jeanne Armstrong because she's very

10 17 00AM 9 coherent?

10 17 02AM 10 A. **She responded when they asked for medical**

10 17 04AM 11 **assistance, just as I did.**

10 17 06AM 12 Q. You just read page 49, lines 6 through 7;

10 17 12AM 13 correct?

10 17 12AM 14 A. **Correct.**

10 17 12AM 15 Q. And my question is do you recall telling

10 17 15AM 16 the detective that you really need to talk to

10 17 18AM 17 Dr. Jeanne Armstrong because she's very coherent?

10 17 22AM 18 Do you recall making that statement? Yes or no?

10 17 24AM 19 A. **She didn't pass out.**

10 17 27AM 20 Q. Do you recall making the statement to the

10 17 31AM 21 detective?

10 17 38AM 22 A. **She responded like I did at the end of**

10 17 41AM 23 **the sweat lodge, to help other people. She was**

10 17 43AM 24 **coherent throughout the sweat lodge.**

10 17 45AM 25 Q. In fact, you told the detective that

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10 17 47AM 1 Dr. Armstrong -- she's straightforward, direct?

10 17 51AM 2 She's an incredibly strong person; correct?

10 17 53AM 3 A. **Correct.**

10 17 54AM 4 Q. Now, when you entered the sweat lodge,

10 18 00AM 5 you were on the inside circle, as you told us last

10 18 03AM 6 week; correct?

10 18 04AM 7 A. **I was.**

10 18 05AM 8 Q. And you were just a few people down from

10 18 08AM 9 Kirby; correct?

10 18 09AM 10 A. **I was in the row in front of her and**

10 18 13AM 11 **about three people down from her.**

10 18 18AM 12 Q. And sometimes you're going to have to

10 18 18AM 13 speak up or put the microphone --

10 18 22AM 14 You were just three people down from her?

10 18 24AM 15 A. **Two or three people. Yes.**

10 18 26AM 16 Q. And describe, if you will, the size of

10 18 28AM 17 this sweat lodge. Between you and myself, tell me

10 18 35AM 18 the diameter of the sweat lodge, if you would. Am

10 18 38AM 19 I close?

10 18 39AM 20 A. **I don't know.**

10 18 42AM 21 Q. You can't remember?

10 18 48AM 22 A. **As many people that were crammed in**

10 18 52AM 23 **there, I mean, I can remember how far my feet are**

10 18 52AM 24 **from the pit when I'm lying down and when I'm**

10 18 55AM 25 **sitting up.**

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10 18 55AM 1 Q. Let's do it this way --

10 18 57AM 2 A. **To put it all together as far as**

10 18 59AM 3 **dimensions go, I didn't measure the tent.**

10 19 02AM 4 Q. See if you remember this: How close was

10 19 04AM 5 Kirby Brown as I'm approaching? You said two to

10 19 07AM 6 three people. Was she this close?

10 19 10AM 7 A. **She was in the back. So if you wanted to**

10 19 15AM 8 **do that as the back of the tent, she's there, and**

10 19 18AM 9 **I'm probably here.**

10 19 27AM 10 Q. And you told us it's very crowded in

10 19 28AM 11 there; correct?

10 19 30AM 12 A. **Correct.**

10 19 30AM 13 Q. The top is pretty low; correct?

10 19 33AM 14 A. **Correct.**

10 19 33AM 15 Q. It's pitch black inside; correct?

10 19 35AM 16 A. **Correct.**

10 19 35AM 17 Q. It's noisy; right?

10 19 37AM 18 A. **Somewhat.**

10 19 41AM 19 Q. Do you remember hearing Kirby saying, we

10 19 45AM 20 can do it? We can do it?

10 20 00AM 21 A. **She told me that when we were back at the**

10 20 03AM 22 **cabin before going into the sweat lodge.**

10 20 05AM 23 Q. Did you meet a person during the seminar

10 20 08AM 24 by the name of Melissa Phillips?

10 20 13AM 25 A. **I don't recall Melissa.**

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10 20 18AM 1 Q. My question is when you're in the sweat

10 20 21AM 2 lodge, did you hear Kirby Brown say, we can do it,

10 20 26AM 3 we can do it, to the crowd?

10 20 33AM 4 A. **I can't answer that.**

10 20 35AM 5 Q. You can't? Why not? You just showed us

10 20 38AM 6 you were within three to four feet from her. Why

10 20 42AM 7 can't you?

10 20 42AM 8 A. **If everyone is saying something or I'm**

10 20 44AM 9 **saying something, I might not know exactly who it's**

10 20 47AM 10 **coming from. For you to specify that it came from**

10 20 50AM 11 **Kirby --**

10 20 51AM 12 Q. So then did you hear everyone respond,

10 20 54AM 13 getting upset, going, no? We've done it? We've

10 20 57AM 14 done it, in response to Kirby?

10 21 03AM 15 A. **No, I did not.**

10 21 10AM 16 Q. Did you -- my question earlier was did

10 21 17AM 17 you ever meet a woman by the name of Melissa

10 21 20AM 18 Phillips at the seminar?

10 21 24AM 19 A. **She wasn't a person that I interacted**

10 21 28AM 20 **with a whole lot.**

10 21 30AM 21 Q. Do you remember her being there?

10 21 31AM 22 A. **Not particularly.**

10 21 32AM 23 Q. Do you remember her being in the sweat

10 21 34AM 24 lodge with you?

10 21 35AM 25 A. **Not particularly.**

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10 21 36AM 1 Q. Do you have any reason to doubt that she  
10 21 38AM 2 was there?

10 21 40AM 3 A. No.

10 21 42AM 4 Q. Do you have any reason to doubt she was  
10 21 44AM 5 in the sweat lodge with you?

10 21 46AM 6 A. No.

10 21 48AM 7 Q. Did you hear Melissa Phillips kept saying  
10 21 51AM 8 that Kirby was not breathing well, that she was  
10 21 53AM 9 slumped over; and every time that Melissa said  
10 21 55AM 10 she's not breathing, someone has to get her out of  
10 22 01AM 11 here? The crowd said, no? She's fine?

10 22 05AM 12 MR. HUGHES: Your Honor, objection.

10 22 07AM 13 Q. BY MR. KELLY: She's fine. Do you recall  
10 22 10AM 14 Melissa Phillips making that statement when you  
10 22 14AM 15 were in the sweat lodge?

10 22 14AM 16 MR. HUGHES: Objection. That mischaracterizes  
10 22 16AM 17 the testimony.

10 22 17AM 18 THE COURT: The witness may answer that if she  
10 22 19AM 19 can. If she can't, then she can state that.

10 22 25AM 20 THE WITNESS: I recall hearing she's not  
10 22 28AM 21 breathing. She's not breathing. I can't get her  
10 22 31AM 22 to move. But it was a man's voice. It wasn't a  
10 22 34AM 23 woman's voice.

10 22 35AM 24 Q. BY MR. KELLY: My question was do you  
10 22 37AM 25 recall Melissa Phillips saying more than one time,

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10 22 40AM 1 she's not breathing? Someone has to get her out of  
10 22 42AM 2 there? And your answer is no, you don't recall  
10 22 45AM 3 that; correct?

10 22 46AM 4 A. **I heard a man's voice. I didn't hear a**  
10 22 51AM 5 **woman's voice.**

10 22 51AM 6 Q. Do you recall a man's voice or a woman's  
10 22 54AM 7 voice responding no, no? She's fine?

10 22 58AM 8 A. **I do not.**

10 22 59AM 9 Q. And do you recall Kirby herself saying,  
10 23 01AM 10 I'm right here? I'm fine?

10 23 04AM 11 A. **I do not.**

10 23 07AM 12 Q. Now, one thing you would agree with me,  
10 23 10AM 13 Dr. Bunn, is no one helped Kirby; correct?

10 23 13AM 14 A. **You stood up here a minute ago and wanted**  
10 23 28AM 15 **to know how far I was from Kirby.**

10 23 31AM 16 Q. You didn't help her, did you? It's yes  
10 23 36AM 17 or no.

10 23 37AM 18 A. **I moved in the tent. So by the time that**  
10 23 40AM 19 **information was happening, I was on the other side**  
10 23 41AM 20 **of the tent.**

10 23 42AM 21 THE COURT: Excuse me, Dr. Bunn. If you can  
10 23 47AM 22 respond to the question in a yes or no fashion,  
10 23 52AM 23 please do that. If you cannot, you need to let the  
10 23 54AM 24 attorney know that's something you cannot answer  
10 23 54AM 25 yes or no.

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10 23 56AM 1 Q. BY MR. KELLY: You didn't help Kirby, did  
10 23 58AM 2 you, when you were in the tent; correct?

10 24 14AM 3 A. **No, I did not.**

10 24 18AM 4 Q. You're a doctor; correct?

10 24 20AM 5 A. **I'm an orthodontist.**

10 24 23AM 6 Q. You were closer to Kirby than James Ray  
10 24 27AM 7 was; correct?

10 24 31AM 8 A. **No, I was not.**

10 24 32AM 9 Q. Do you recall Melissa Phillips saying --  
10 24 42AM 10 keep saying, she's not breathing right, over and  
10 24 45AM 11 over?

10 24 47AM 12 A. **I heard a man's voice say those things.**

10 24 57AM 13 Q. Now, you told us that --

10 25 03AM 14 Your Honor, this might be a good time for  
10 25 04AM 15 a break.

10 25 05AM 16 THE COURT: Let's do that. Ladies and  
10 25 07AM 17 gentlemen, we'll take the morning recess. Please  
10 25 10AM 18 be back in the jury room at quarter till. It's  
10 25 13AM 19 about 20 minutes. Please remember the admonition.

10 25 15AM 20 Thank you.

10 49 10AM 21 (Recess.)

10 49 11AM 22 THE COURT: The record will show the presence  
10 49 13AM 23 of the defendant, Mr. Ray; the attorneys; the jury.  
10 49 15AM 24 The witness, Dr. Bunn, has returned to the witness  
10 49 17AM 25 stand.

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10 49 18AM 1 Mr. Kelly.

10 49 20AM 2 MR. KELLY: Thank you, Judge.

10 49 21AM 3 Q. Dr. Bunn, you need some more water?

10 49 31AM 4 A. **I have some here. Thank you.**

10 49 33AM 5 Q. Dr. Bunn, right before the break you  
10 49 43AM 6 mentioned that around the fourth round you moved  
10 49 47AM 7 inside the sweat lodge; correct?

10 49 49AM 8 A. **Correct.**

10 49 50AM 9 Q. And as you moved -- or the next location  
10 49 56AM 10 that you moved to, you were sitting very close to  
10 49 59AM 11 Liz Neuman; correct?

10 50 02AM 12 A. **I didn't say that.**

10 50 03AM 13 Q. Well, that's my question. Do you know  
10 50 05AM 14 who Liz Neuman was?

10 50 06AM 15 A. **I do.**

10 50 08AM 16 Q. Do you know a participant by the name of  
10 50 11AM 17 Laura Tucker?

10 50 12AM 18 A. **I do.**

10 50 13AM 19 Q. And when you were seated the second time,  
10 50 15AM 20 and you showed us last week on the Exhibit 144, I  
10 50 19AM 21 think it is, the diagram of the sweat lodge, you  
10 50 22AM 22 drew a finger where you were seated. You were  
10 50 27AM 23 close to Liz Neuman.

10 50 28AM 24 Do you recall that?

10 50 29AM 25 A. **I do.**

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10:50:28AM 1 Q. Pardon me?

10:50:29AM 2 A. I do.

10:50:29AM 3 Q. And tell the jury -- we used me as an

10:50:44AM 4 example with Kirby Brown -- how close was Liz to

10:50:40AM 5 you?

10:50:40AM 6 A. I can't answer that.

10:50:43AM 7 Q. Pardon me?

10:50:44AM 8 A. I can't answer that.

10:50:45AM 9 Q. Well, let's narrow it down, then. Was

10:50:48AM 10 she as far away as you and I are?

10:50:50AM 11 A. No, she was not.

10:50:52AM 12 Q. Was she pretty close to you like Kirby

10:50:57AM 13 was, perhaps this distance?

10:50:58AM 14 A. Perhaps.

10:51:06AM 15 Q. At that time period, Dr. Bunn, did you

10:51:15AM 16 hear Liz Neuman tell Laura Tucker that she was

10:51:20AM 17 okay?

10:51:20AM 18 A. I did not.

10:51:21AM 19 Q. You didn't see anything when you're in

10:51:25AM 20 that close proximity to Liz Neuman that would lead

10:51:28AM 21 you to believe that she was in some type of medical

10:51:31AM 22 distress; correct?

10:51:32AM 23 A. I didn't hear anything.

10:51:34AM 24 Q. You didn't hear anything, and you didn't

10:51:36AM 25 see anything, and nothing caused your attention to

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10:51:39AM 1 be directed towards the welfare of Liz Neuman;

10:51:41AM 2 correct?

10:51:41AM 3 A. Correct.

10:51:42AM 4 Q. Now, when you moved from the first

10:51:59AM 5 position over by Kirby to your second position over

10:52:03AM 6 by Liz Neuman, you passed in front of James Ray;

10:52:09AM 7 correct?

10:52:09AM 8 A. Correct.

10:52:09AM 9 Q. And as you passed in front of James, he

10:52:13AM 10 made a statement to you; correct?

10:52:15AM 11 A. Correct.

10:52:15AM 12 Q. And he said something to the effect of

10:52:19AM 13 you're stronger than this. You can do it.

10:52:22AM 14 Something along those lines; correct?

10:52:25AM 15 A. He said my name and then he said those

10:52:27AM 16 things. Yes.

10:52:27AM 17 Q. So he said, Beverly, you're stronger than

10:52:30AM 18 this. You can do it. Correct?

10:52:32AM 19 A. Something to that effect. Yes.

10:52:34AM 20 Q. And, in fact, you did do it; correct?

10:52:37AM 21 A. Correct.

10:52:41AM 22 Q. In other words, you were fine after the

10:52:41AM 23 sweat lodge; correct?

10:52:41AM 24 A. Yes.

10:52:42AM 25 Q. Now as -- up to that point in time, you

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10:52:47AM 1 told us on direct examination, when you're over by

10:52:51AM 2 Kirby, you had made the decision I'm going to leave

10:52:54AM 3 the next time the flap is open; correct?

10:52:56AM 4 A. Correct.

10:52:57AM 5 Q. And as you're crawling out in front of

10:52:59AM 6 James, he makes the statement, Beverly, you're

10:53:02AM 7 stronger than this. You can do it. So you make

10:53:06AM 8 the decision to stay. Correct?

10:53:07AM 9 A. Correct.

10:53:07AM 10 Q. And you also make the decision at that

10:53:11AM 11 time not to return to your original position but to

10:53:15AM 12 go to the second position over by Liz Neuman;

10:53:17AM 13 correct? Correct?

10:53:36AM 14 A. I can't answer that statement.

10:53:36AM 15 Q. Well, no one directed you where to sit;

10:53:46AM 16 correct? I'm talking about the second time.

10:53:48AM 17 Correct?

10:53:48AM 18 A. Correct.

10:53:48AM 19 Q. So you made the decision that I'm going

10:53:51AM 20 to stay; correct? You just told us that.

10:53:54AM 21 A. Correct.

10:53:54AM 22 Q. And then you made the decision that this

10:53:56AM 23 time I'm going to move over to this location;

10:54:01AM 24 correct? A different location.

10:54:02AM 25 A. A different location. Yes.

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10:54:04AM 1 Q. And so my point is you individually made

10:54:10AM 2 the decision to stay and to sit in a different

10:54:13AM 3 place. Correct?

10:54:14AM 4 A. After being encouraged by Mr. Ray, yes.

10:54:19AM 5 Q. And you knew, Dr. Bunn, that after the

10:54:23AM 6 presentation before the sweat lodge that Elsa left;

10:54:28AM 7 correct?

10:54:28AM 8 A. I don't know who Elsa is.

10:54:39AM 9 Q. Do you have any reason to dispute that

10:54:42AM 10 before -- after hearing Mr. Ray talk about how hot

10:54:44AM 11 it is and how to get out, that Elsa Hefstad -- Elsa

10:54:52AM 12 Hefstad left? Did you know that?

10:54:55AM 13 A. I found out -- if I'm thinking of the

10:54:58AM 14 right person, I found out afterwards.

10:55:00AM 15 Q. So that person made the decision to leave

10:55:03AM 16 is my point. Correct?

10:55:04AM 17 A. She just didn't go in the sweat lodge.

10:55:08AM 18 Q. Right. She made that decision not to go

10:55:10AM 19 in the sweat lodge; correct? Correct?

10:55:14AM 20 A. Correct.

10:55:15AM 21 Q. And after the first round three people

10:55:19AM 22 left?

10:55:22AM 23 A. I recall one person for sure. I don't

10:55:26AM 24 recall the number that left.

10:55:27AM 25 Q. You told the detective after round 1

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10 55 28AM 1 there was a couple people left, and it scared me  
 10 55 31AM 2 because one man left; correct?  
 10 55 32AM 3 **A. Correct.**  
 10 55 33AM 4 **Q.** So a couple people is more than one  
 10 55 34AM 5 person; correct? Two is more than one; correct?  
 10 55 41AM 6 **A. Correct.**  
 10 55 41AM 7 **Q.** And if three people had left, you don't  
 10 55 44AM 8 have any reason to dispute that; correct?  
 10 55 46AM 9 **A. Correct.**  
 10 55 47AM 10 **Q.** Melissa Phillips left after the third  
 10 55 50AM 11 round; correct?  
 10 55 55AM 12 **A. I don't know when Melissa Phillips left.**  
 10 55 58AM 13 **Q.** Did you see somebody leave after the  
 10 56 00AM 14 second and third round?  
 10 56 02AM 15 **A. I recall the second round. The third**  
 10 56 05AM 16 **round I don't recall the name of anybody.**  
 10 56 07AM 17 **Q.** You just can't recall what happened when  
 10 56 11AM 18 the flap is opened, they're bringing in new rocks,  
 10 56 15AM 19 the light is there? And you can't recall whether  
 10 56 18AM 20 anyone left after the third round?  
 10 56 20AM 21 **Is that your testimony?**  
 10 56 21AM 22 **A. There were people leaving.**  
 10 56 23AM 23 **Q.** Okay. Then that's my point is people  
 10 56 27AM 24 were leaving each and every round; correct?  
 10 56 28AM 25 **A. Correct.**  
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10 56 28AM 1 **Q.** And people were leaving and then coming  
 10 56 31AM 2 back in?  
 10 56 31AM 3 **A. Correct.**  
 10 56 32AM 4 **Q.** And they were -- they were making that  
 10 56 36AM 5 decision. You didn't see anyone forcing them to  
 10 56 39AM 6 come back in; correct?  
 10 56 39AM 7 **A. Correct.**  
 10 56 40AM 8 **Q.** You didn't see anyone force them go out;  
 10 56 43AM 9 correct?  
 10 56 43AM 10 **A. Correct.**  
 10 56 43AM 11 **Q.** And James would say to people as they  
 10 56 49AM 12 were leaving, you're stronger than this or  
 10 56 51AM 13 something to that effect; correct?  
 10 56 53AM 14 **A. Correct.**  
 10 56 53AM 15 **Q.** But beyond that you didn't notice any  
 10 56 56AM 16 other thing from Mr. Ray saying you have to stay;  
 10 56 58AM 17 correct?  
 10 56 59AM 18 **A. No.**  
 10 57 02AM 19 **Q.** Now, you said that you were specifically  
 10 57 16AM 20 working with James Ray; correct?  
 10 57 18AM 21 **A. He chose to be my mentor. Yes.**  
 10 57 24AM 22 **Q.** And when you left, he stated your name  
 10 57 26AM 23 and said, you're stronger than this. And you made  
 10 57 28AM 24 the decision to stay. Correct?  
 10 57 28AM 25 **A. Correct.**  
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10 57 28AM 1 **Q.** But you don't know whether Kirby Brown  
 10 57 31AM 2 was working specifically with James Ray; correct?  
 10 57 34AM 3 **A. I do.**  
 10 57 38AM 4 **Q.** She was not; correct?  
 10 57 40AM 5 **A. She was given a mentor, one of the Dream**  
 10 57 47AM 6 **Team members. But she also worked with James Ray.**  
 10 57 50AM 7 **Q.** And James Shore was not working  
 10 57 52AM 8 specifically with Mr. Ray; correct?  
 10 57 54AM 9 **A. I don't recall.**  
 10 57 57AM 10 **Q.** Liz Neuman was not working specifically  
 10 58 00AM 11 with James Ray; correct?  
 10 58 01AM 12 **A. Liz Neuman was a Dream Teamer.**  
 10 58 04AM 13 **Q.** You don't have any idea as to why those  
 10 58 07AM 14 three individuals decided to stay in the sweat  
 10 58 09AM 15 lodge instead of leave when the flap was opened;  
 10 58 12AM 16 correct?  
 10 58 12AM 17 **A. Correct.**  
 10 58 13AM 18 **Q.** You don't have any idea as to why those  
 10 58 18AM 19 three individuals did not move like you did where  
 10 58 20AM 20 it was cooler in the sweat lodge; correct?  
 10 58 22AM 21 **A. Correct.**  
 10 58 25AM 22 **Q.** You did tell us on direct that someone  
 10 58 30AM 23 made a decision to go out the back; correct?  
 10 58 32AM 24 **A. Correct.**  
 10 58 33AM 25 **Q.** They lifted up the tent; correct?  
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10 58 36AM 1 **A. From my understanding, yes.**  
 10 58 38AM 2 **Q.** And whoever that person was was not  
 10 58 41AM 3 following the directions of Mr. Ray; correct?  
 10 58 43AM 4 **A. Correct.**  
 10 58 43AM 5 **Q.** They decided to get out of the back;  
 10 58 48AM 6 correct?  
 10 58 48AM 7 **A. That's what they appeared to do.**  
 10 58 52AM 8 **Q.** Didn't go out the flap in the front  
 10 58 55AM 9 between rounds; correct?  
 10 58 56AM 10 **A. Correct.**  
 10 58 56AM 11 **Q.** Now, at that point in time when the flap  
 10 58 58AM 12 is lifted up, it's very dark, crowded and noisy  
 10 58 02AM 13 inside, and there is light that shines in; correct?  
 10 59 04AM 14 **A. Correct.**  
 10 59 05AM 15 **Q.** And when that light shined in, you heard  
 10 59 09AM 16 Mr. Ray say something like this is a ceremony.  
 10 59 13AM 17 That's sacrilegious. Correct?  
 10 59 16AM 18 **A. Yes.**  
 10 59 16AM 19 **Q.** Did you also hear the word "flashlight,"  
 10 59 18AM 20 "someone has a flashlight"?  
 10 59 20AM 21 **A. He said where's the light coming from?**  
 10 59 23AM 22 **Where is the light coming from? We weren't allowed**  
 10 59 26AM 23 **to take anything in there.**  
 10 59 27AM 24 **Q.** Do you know -- did you meet a person by  
 10 59 29AM 25 the name of Dr. Nell Wagoner?  
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10 59 33AM 1 **A. I met a person by the name of Nell.**  
 10 59 35AM 2 **Q.** Did you know that Nell was very closely  
 10 59 38AM 3 seated next to Mr. Ray?  
 10 59 42AM 4 **A. I don't recall where Nell was seated.**  
 10 59 47AM 5 **Q.** If Nell were to testify that Mr. Ray  
 10 59 50AM 6 said, there is a flashlight; it's sacrilegious,  
 10 59 57AM 7 would you have any reason to disagree with Nell?  
 11 00 02AM 8 **A. I can't answer that question.**  
 11 00 08AM 9 **Q.** You can't. If Nell is across the flap  
 11 00 15AM 10 from James Ray within, say, this distance and she  
 11 00 17AM 11 took that witness stand and said, James Ray thought  
 11 00 20AM 12 it was a flashlight, my question is would you  
 11 00 23AM 13 dispute that? Do you have any reason, based on  
 11 00 39AM 14 your experience, to dispute her testimony?  
 11 00 47AM 15 **A. I can't answer your question.**  
 11 01 02AM 16 **Q.** That's all right if you can't answer.  
 11 01 05AM 17 When the person left from the back of the tent, did  
 11 01 09AM 18 you hear people in the crowd say that's  
 11 01 14AM 19 dishonorable. You can't do that?  
 11 01 16AM 20 **A. No, I did not.**  
 11 01 20AM 21 **Q.** Now, one thing you do know, Dr. Bunn, is  
 11 01 22AM 22 no one in the crowd, whether they were right next  
 11 01 27AM 23 to Kirby Brown, James Shore or Liz Neuman, helped  
 11 01 29AM 24 any one of those three individuals; correct?  
 11 01 29AM 25 **A. I don't know.**

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11 01 33AM 1 **Q.** Let's try it again. You spent six hours  
 11 01 38AM 2 on Friday going round by round by round as to your  
 11 01 39AM 3 recollection. Do you recall your testimony?  
 11 01 40AM 4 **A. I do.**  
 11 01 41AM 5 **Q.** At any point during your recollection, do  
 11 01 45AM 6 you recall any one of the people inside that sweat  
 11 01 47AM 7 lodge helping one of those three individuals?  
 11 01 48AM 8 **A. I do not.**  
 11 01 51AM 9 **Q.** Now, after the sweat lodge was over, you  
 11 02 08AM 10 saw this individual named Lou; correct?  
 11 02 11AM 11 **A. Yes.**  
 11 02 12AM 12 **Q.** And you described his injuries as showing  
 11 02 18AM 13 white skin on his arms; correct?  
 11 02 20AM 14 **A. Correct.**  
 11 02 21AM 15 **Q.** You didn't see chunks of meat falling off  
 11 02 24AM 16 his arm; correct?  
 11 02 25AM 17 **A. I only saw him for a split second as I**  
 11 02 31AM 18 **was coming out of the tent.**  
 11 02 32AM 19 **Q.** I'm not asking you how long you saw him.  
 11 02 35AM 20 I'm asking what you saw. And you did not see  
 11 02 37AM 21 chunks of meat fall off his arm; correct?  
 11 02 41AM 22 **A. Correct.**  
 11 02 43AM 23 **Q.** What you saw was some white skin;  
 11 02 43AM 24 correct?  
 11 02 43AM 25 **A. Correct.**

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11 02 44AM 1 **Q.** And you knew that Lou had earlier been in  
 11 02 48AM 2 the sweat lodge?  
 11 02 48AM 3 **A. Correct.**  
 11 02 48AM 4 **Q.** You knew there was a commotion around the  
 11 02 51AM 5 fire -- not the fire but the rock pit; correct?  
 11 02 54AM 6 **A. Correct.**  
 11 02 54AM 7 **Q.** You made the assumption that he was the  
 11 02 56AM 8 fellow that fell into that; correct?  
 11 02 58AM 9 **A. I didn't make the assumption. They were**  
 11 03 00AM 10 **yelling out his name and trying to pull him back**  
 11 03 03AM 11 **from the fire -- the rocks.**  
 11 03 06AM 12 **Q.** So you heard his name as well. So you  
 11 03 07AM 13 knew he was the person that went in the rock pit;  
 11 03 08AM 14 correct?  
 11 03 09AM 15 **A. Correct.**  
 11 03 10AM 16 **Q.** And you didn't hear him scream; correct?  
 11 03 15AM 17 That's what you told us Friday?  
 11 03 16AM 18 **A. I couldn't identify who was screaming.**  
 11 03 19AM 19 **Q.** But after it's over you saw the white on  
 11 03 23AM 20 his skin; correct?  
 11 03 24AM 21 **A. Correct.**  
 11 03 24AM 22 **Q.** And you associated that with a burn;  
 11 03 28AM 23 correct?  
 11 03 28AM 24 **A. Correct.**  
 11 03 29AM 25 **Q.** You didn't see any lacerations; correct?  
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11 03 37AM 1 **A. I did not.**  
 11 03 53AM 2 **Q.** You made a statement on direct that you  
 11 04 05AM 3 couldn't -- I'm paraphrasing so correct me if I'm  
 11 04 09AM 4 wrong. But you couldn't leave because we had to do  
 11 04 13AM 5 everything James told us. Do you recall your  
 11 04 16AM 6 testimony?  
 11 04 19AM 7 **A. I recall my testimony.**  
 11 04 23AM 8 **Q.** I just want to know, is that the reason  
 11 04 26AM 9 you didn't leave was because you had to do  
 11 04 28AM 10 everything James told you?  
 11 04 30AM 11 **A. We couldn't leave when the door was**  
 11 04 33AM 12 **closed.**  
 11 04 33AM 13 **Q.** But you could leave when it was open;  
 11 04 36AM 14 correct?  
 11 04 38AM 15 **A. Correct.**  
 11 04 37AM 16 **Q.** Someone lifted up the tarp and went out  
 11 04 38AM 17 the back; correct?  
 11 04 40AM 18 **A. Correct.**  
 11 04 40AM 19 **Q.** Some people didn't even go in the sweat  
 11 04 42AM 20 lodge to begin with; correct?  
 11 04 43AM 21 **A. Correct.**  
 11 04 44AM 22 **Q.** Some people left and went back in;  
 11 04 46AM 23 correct?  
 11 04 46AM 24 **A. Correct.**  
 11 04 57AM 25 **Q.** And as you're in the sweat lodge,  
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11 05 00AM 1 everyone is either seated or lying down; correct?

11 05 03AM 2 **A. Correct.**

11 05 03AM 3 **Q.** So your vision is impaired not only by

11 05 05AM 4 the darkness but also because of the position your

11 05 05AM 5 body is in; correct?

11 05 14AM 6 **Maybe that's a poor question. If you**

11 05 17AM 7 **need me to rephrase it, I will.**

11 05 20AM 8 **Let me try this, Doctor: Did you see**

11 05 24AM 9 **people who were laying prone with their face down?**

11 05 28AM 10 **A. No, I did not.**

11 05 30AM 11 **Q.** You didn't? You didn't see people laying

11 05 34AM 12 **with their face down with their head towards the**

11 05 36AM 13 **back of the flap?**

11 05 38AM 14 **A. I saw people not laying down, but they**

11 05 43AM 15 **were face down, but they were on their knees with**

11 05 46AM 16 **their head towards the flap or towards the edge of**

11 05 50AM 17 **the tent.**

11 05 50AM 18 **Q.** So you didn't see anyone lying prone

11 05 55AM 19 **down; correct?**

11 05 55AM 20 **A. Face up.**

11 05 58AM 21 **Q.** Face up. My question is face down. You

11 05 59AM 22 **didn't see anyone?**

11 05 59AM 23 **A. I didn't see anyone face down.**

11 06 01AM 24 **Q.** You didn't see anyone lifting up the edge

11 06 04AM 25 **of the tent to let fresh air in?**

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11 06 06AM 1 **A. I did not.**

11 06 08AM 2 **Q.** And you said you saw people on their

11 06 10AM 3 **knees with their head down?**

11 06 11AM 4 **A. Correct.**

11 06 11AM 5 **Q.** My question is, in addition to the

11 06 15AM 6 **darkness, the position of your body affects your**

11 06 17AM 7 **ability to see what's going on. Fair statement?**

11 06 20AM 8 **A. Fair.**

11 06 20AM 9 **Q.** How were you seated?

11 06 22AM 10 **A. I was laying face up or sitting up.**

11 06 27AM 11 **Q.** And you were on the inside row the whole

11 06 28AM 12 **time?**

11 06 30AM 13 **A. Yes, I was.**

11 06 31AM 14 **Q.** Do you believe the inside row was hotter

11 06 34AM 15 **than the outside row closer to the rocks?**

11 06 38AM 16 **A. I can't answer that question.**

11 06 44AM 17 **Q.** Okay. Is it hotter every time they

11 06 48AM 18 **brought rocks in?**

11 06 49AM 19 **A. Yes, it was.**

11 06 50AM 20 **Q.** And you mentioned that it got even hotter

11 06 52AM 21 **than when James would throw water on the rocks;**

11 06 52AM 22 **correct?**

11 06 55AM 23 **A. Correct.**

11 06 58AM 24 **Q.** You remember last Friday you told us or

11 06 58AM 25 **you agreed that water weighs eight and a half**

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11 07 02AM 1 **gallons -- excuse me -- eight and a half pounds per**

11 07 04AM 2 **gallon? You said yes last Friday. Do you recall**

11 07 08AM 3 **that?**

11 07 08AM 4 **A. If that's what I said last Friday.**

11 07 11AM 5 **Q.** So a five-gallon bucket would weigh 42

11 07 15AM 6 **pounds; correct?**

11 07 16AM 7 **A. Correct.**

11 07 16AM 8 **Q.** And your recollection is that he would

11 07 20AM 9 **put five gallons each round on the rocks; correct?**

11 07 24AM 10 **A. Close to it.**

11 07 26AM 11 **Q.** Maybe less?

11 07 27AM 12 **A. I mean, the bucket was open, so maybe it**

11 07 34AM 13 **was four gallons, four and a half gallons. It was**

11 07 37AM 14 **in a five-gallon bucket.**

11 07 41AM 15 **Q.** When the sweat lodge was over, the

11 07 47AM 16 **ceremony was over, you left in the direction as**

11 07 52AM 17 **instructed; correct?**

11 07 54AM 18 **A. Correct.**

11 07 56AM 19 **Q.** You didn't bolt for the door. You went

11 08 00AM 20 **out in a clockwise manner; correct?**

11 08 03AM 21 **A. I did.**

11 08 03AM 22 **Q.** And when you're doing that, you helped

11 08 05AM 23 **someone else get out; correct?**

11 08 07AM 24 **A. I attempted to. Yes.**

11 08 08AM 25 **Q.** So as you're leaving, then, you made the

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11 08 13AM 1 **decision that I should go out as instructed in a**

11 08 17AM 2 **clockwise manner; correct?**

11 08 19AM 3 **A. Correct.**

11 08 19AM 4 **Q.** You moved into an area of the sweat lodge

11 08 23AM 5 **where it was actually hotter as you're doing that;**

11 08 27AM 6 **correct?**

11 08 27AM 7 **A. It felt hotter to me. Yes.**

11 08 37AM 8 **Q.** Took longer to go out that way; correct?

11 08 38AM 9 **A. There is no choice. You go clockwise.**

11 08 52AM 10 **Q.** No choice. You'd agree with me when you

11 08 57AM 11 **showed us up on the exhibit your second location,**

11 09 01AM 12 **the closer way out of the sweat lodge would have**

11 09 04AM 13 **been to head directly for the door; correct?**

11 09 06AM 14 **A. Correct.**

11 09 07AM 15 **Q.** You didn't do that. You went all the way

11 09 11AM 16 **around; correct?**

11 09 12AM 17 **A. As instructed.**

11 09 14AM 18 **Q.** As instructed. You made the decision to

11 09 17AM 19 **follow the rules and go around; correct?**

11 09 20AM 20 **A. Correct.**

11 09 20AM 21 **Q.** You didn't take the short way; correct?

11 09 22AM 22 **A. Correct.**

11 09 23AM 23 **Q.** You didn't go out the back of the tarp

11 09 25AM 24 **like that other person did; correct?**

11 09 26AM 25 **A. Correct.**

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11 09 27AM 1 Q. You made the decision to follow the  
 11 09 28AM 2 rules; correct?  
 11 09 28AM 3 A. Correct.  
 11 09 37AM 4 Q. And that way was longer and hotter than  
 11 09 37AM 5 if you would have went out through the tarp;  
 11 09 46AM 6 correct? The flap. Excuse me. Not the tarp.  
 11 09 46AM 7 Correct?  
 11 09 47AM 8 A. I don't understand.  
 11 09 50AM 9 Q. You want me to go through it again?  
 11 09 54AM 10 You're close to the flap where the opening is in  
 11 09 57AM 11 your second seat; correct?  
 11 10 00AM 12 A. Correct.  
 11 10 01AM 13 Q. When the sweat lodge is over and people  
 11 10 05AM 14 are leaving, you do not crawl directly to the flap  
 11 10 08AM 15 where the opening is; correct?  
 11 10 10AM 16 A. Correct.  
 11 10 10AM 17 Q. You take the longer way around; correct?  
 11 10 13AM 18 A. Correct.  
 11 10 15AM 19 Q. The hotter way around; correct?  
 11 10 17AM 20 A. Correct.  
 11 10 18AM 21 Q. And that was your decision to do that;  
 11 10 21AM 22 correct?  
 11 10 21AM 23 A. For the safety of others and what was  
 11 10 26AM 24 explained to me, those were the rules. And that's  
 11 10 26AM 25 what I did.

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11 10 28AM 1 Q. Sure. And you did it; correct?  
 11 10 31AM 2 A. Correct.  
 11 10 36AM 3 Q. Now, when you get out of the sweat lodge,  
 11 10 40AM 4 you're in good shape; correct?  
 11 10 43AM 5 A. Better than others.  
 11 10 47AM 6 Q. Well, you told Detective Willingham, I'm  
 11 10 49AM 7 happy. I'm fine at this point. Correct?  
 11 10 51AM 8 A. I laid on the tarp for probably about 10  
 11 10 54AM 9 minutes and drank half a glass of electrolyte and  
 11 10 56AM 10 was splashed with some cold water, buckets of  
 11 11 03AM 11 water.  
 11 11 03AM 12 Q. And you were fine; correct?  
 11 11 05AM 13 A. I felt pretty good.  
 11 11 07AM 14 Q. You didn't go to the hospital?  
 11 11 08AM 15 A. I did not.  
 11 11 09AM 16 Q. And as you are outside, you see Sidney  
 11 11 18AM 17 Spencer outside; correct?  
 11 11 17AM 18 A. Correct.  
 11 11 18AM 19 Q. And did you pour water on her or someone  
 11 11 23AM 20 else?  
 11 11 23AM 21 A. Someone else.  
 11 11 27AM 22 Q. Were you there when the water was poured  
 11 11 28AM 23 on her?  
 11 11 30AM 24 A. There had already been water poured on  
 11 11 30AM 25 her. But when we were actually -- they called for

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11 11 34AM 1 medical assistance, they poured some more water  
 11 11 39AM 2 when I was there, and they put a cold cloth on her  
 11 11 43AM 3 forehead.  
 11 11 43AM 4 Q. Were you able to see her pupils?  
 11 11 45AM 5 A. You could see, like, half her eye.  
 11 11 47AM 6 Q. And when you saw half the eye, did you  
 11 11 48AM 7 notice whether her pupils were pinpoint?  
 11 11 51AM 8 A. I did not.  
 11 11 52AM 9 Q. Was there any foam coming from her mouth?  
 11 11 54AM 10 A. Yes.  
 11 11 54AM 11 Q. Were you aware at the hospital she was  
 11 11 57AM 12 diagnosed with toxicity?  
 11 12 00AM 13 MR. HUGHES: Objection.  
 11 12 00AM 14 THE COURT: Sustained.  
 11 12 02AM 15 Q. BY MR. KELLY: Were you aware of the  
 11 12 04AM 16 diagnosis at the hospital?  
 11 12 08AM 17 A. I was only told she was in critical  
 11 12 09AM 18 condition.  
 11 12 10AM 19 Q. You told us about Stephen Ray. You saw  
 11 12 13AM 20 him; correct?  
 11 12 14AM 21 A. Correct.  
 11 12 14AM 22 Q. You told us that you did see his eyes  
 11 12 17AM 23 open. They were bloodshot; correct?  
 11 12 20AM 24 A. I did.  
 11 12 21AM 25 Q. Did you notice his pupils? Were they  
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11 12 25AM 1 pinpoint?  
 11 12 25AM 2 A. I do not recall.  
 11 12 26AM 3 Q. As you're outside the sweat lodge, you  
 11 12 32AM 4 want to go over and help your friend, Kirby Brown;  
 11 12 35AM 5 correct?  
 11 12 35AM 6 A. Correct.  
 11 12 35AM 7 Q. And Christine Jobe will not let you?  
 11 12 36AM 8 A. Correct.  
 11 12 38AM 9 Q. And you know, Dr. Bunn, you don't have  
 11 12 42AM 10 any idea whether there is any communication between  
 11 12 44AM 11 Mr. Ray and Christine Jobe in regards to your  
 11 12 48AM 12 efforts to go over and help your friend Kirby;  
 11 12 51AM 13 correct?  
 11 12 51AM 14 A. Correct.  
 11 12 54AM 15 Q. In other words, Christine Jobe could have  
 11 12 57AM 16 just unilaterally acting on her own without any  
 11 13 01AM 17 input from Mr. Ray told you stay on this side of  
 11 13 04AM 18 the tent; correct?  
 11 13 04AM 19 A. I can't answer that question.  
 11 13 12AM 20 Q. Mr. Ray did not tell you that you cannot  
 11 13 18AM 21 help your friend Kirby Brown; correct?  
 11 13 20AM 22 A. Mr. Ray did not.  
 11 13 21AM 23 Q. Mr. Ray did not tell you that you could  
 11 13 23AM 24 not help Liz Neuman; correct?  
 11 13 25AM 25 A. Mr. Ray did not.

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11 13 27AM 1 Q. Mr. Ray did not tell you that you could  
 11 13 29AM 2 not help Stephen Ray; correct?  
 11 13 33AM 3 A. Mr. Ray did not.  
 11 13 36AM 4 Q. Mr. Ray did not tell you that you could  
 11 13 40AM 5 not help James Shore; correct?  
 11 13 41AM 6 A. Mr. Ray did not.  
 11 13 43AM 7 Q. Mr. Ray did not tell you that you could  
 11 13 46AM 8 not help Sidney Spencer; correct?  
 11 13 46AM 9 A. Correct.  
 11 13 48AM 10 Q. Mr. Ray did not tell you that you could  
 11 13 51AM 11 not help anybody who was in distress outside that  
 11 13 52AM 12 sweat lodge; correct?  
 11 13 56AM 13 A. He did not.  
 11 13 58AM 14 Q. Were you aware at a point in time when  
 11 14 03AM 15 James Ray was helping a person who was screaming  
 11 14 07AM 16 out her lungs, screaming his name at the top of her  
 11 14 09AM 17 lungs? Did you know that happened?  
 11 14 10AM 18 A. I did not.  
 11 14 13AM 19 Q. You told us that you were back in your  
 11 14 16AM 20 room at 5:21 in the afternoon; correct?  
 11 14 18AM 21 A. 5:51.  
 11 14 22AM 22 Q. 5:51. And this photograph, which is  
 11 14 35AM 23 admitted, Exhibit 230, you identified James Ray in  
 11 14 37AM 24 Exhibit 230; correct?  
 11 14 37AM 25 A. I did.

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11 14 37AM 1 Q. This photograph is taken after you're  
 11 14 40AM 2 back in your room; correct?  
 11 14 41AM 3 A. That's what I stated.  
 11 14 44AM 4 Q. Correct?  
 11 14 44AM 5 A. Correct.  
 11 14 45AM 6 Q. James Ray is still at the scene where  
 11 14 48AM 7 these folks are in medical distress; correct?  
 11 14 51AM 8 A. Appears so.  
 11 14 52AM 9 Q. You told us on direct that you were  
 11 14 59AM 10 concerned about some person in a golf cart. And  
 11 15 02AM 11 you saw him, and his eyes were wide open and his  
 11 15 05AM 12 pupils dilated. Do you recall that testimony?  
 11 15 09AM 13 A. Her. And her name was Christine.  
 11 15 11AM 14 Q. Christine. Her. Do you recall that  
 11 15 12AM 15 testimony?  
 11 15 12AM 16 A. I do.  
 11 15 13AM 17 Q. And you didn't help that person, did you?  
 11 15 14AM 18 A. I did.  
 11 15 18AM 19 Q. Pardon me?  
 11 15 19AM 20 A. I did.  
 11 15 20AM 21 Q. Did you? Did you call 911?  
 11 15 26AM 22 A. The ambulances were already here.  
 11 15 26AM 23 Q. Did you take her to the hospital?  
 11 15 27AM 24 A. I directed the person driving the golf  
 11 15 32AM 25 cart to go back where the medical people were. I

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11 15 34AM 1 covered her up in a blanket and said, take her back  
 11 15 37AM 2 to where the ambulances were. She needs to go to  
 11 15 40AM 3 the hospital.  
 11 15 40AM 4 Q. You said that you were concerned during  
 11 15 42AM 5 the ceremony about overweight people; correct?  
 11 15 45AM 6 A. Yes.  
 11 15 47AM 7 Q. You said you were concerned about people  
 11 15 49AM 8 with high blood pressure; correct?  
 11 15 51AM 9 A. Correct.  
 11 15 51AM 10 Q. And you knew, based on your personal  
 11 15 54AM 11 experience, that you should stay in a sauna for  
 11 15 58AM 12 only 20 to 30 minutes; correct?  
 11 16 00AM 13 A. Correct.  
 11 16 00AM 14 Q. It's true, isn't it, Dr. Bunn, that you  
 11 16 03AM 15 didn't tell any of these overweight people don't go  
 11 16 07AM 16 in the sauna; correct?  
 11 16 08AM 17 A. It was a sweat lodge.  
 11 16 09AM 18 Q. You didn't tell anyone who was suffering  
 11 16 12AM 19 from high blood pressure don't go in the sauna;  
 11 16 15AM 20 correct?  
 11 16 15AM 21 A. Correct.  
 11 16 16AM 22 Q. You didn't say after 20 to 30 minutes in  
 11 16 20AM 23 this sweat lodge, hey, this is like a sauna. We  
 11 16 23AM 24 have to get out. Correct? Correct? Isn't that  
 11 16 37AM 25 correct?

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11 16 38AM 1 A. I wasn't in charge of the sweat lodge.  
 11 16 43AM 2 Q. And this person who was in the golf  
 11 16 49AM 3 cart -- Christine. You didn't take her back down  
 11 16 52AM 4 to receive medical care, did you?  
 11 16 54AM 5 A. No, I did not.  
 11 16 55AM 6 Q. Now, you did go to the press -- we talked  
 11 16 58AM 7 about that -- on about six separate occasions;  
 11 17 02AM 8 correct?  
 11 17 02AM 9 A. I spoke with them. Yes.  
 11 17 02AM 10 Q. Pardon me?  
 11 17 08AM 11 A. I spoke with them.  
 11 17 08AM 12 Q. You remember that. You were on TV;  
 11 17 12AM 13 right?  
 11 17 12AM 14 A. Just like I am right now.  
 11 17 14AM 15 Q. Pardon me?  
 11 17 15AM 16 A. Just like I am right now.  
 11 17 16AM 17 Q. Well, there is a little difference, isn't  
 11 17 20AM 18 there? You volunteered to go somewhere to be on  
 11 17 23AM 19 TV; correct?  
 11 17 24AM 20 A. Correct.  
 11 17 27AM 21 Q. And when asked to be interviewed by the  
 11 17 33AM 22 defense team before today's testimony, you refused  
 11 17 36AM 23 that request through your attorney; correct?  
 11 17 38AM 24 A. I am not aware of any request.  
 11 17 41AM 25 Q. You're not?

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11:17:42AM 1 **A. I am not.**

11:17:44AM 2 **Q.** Either the State of Arizona or your own

11:17:47AM 3 attorney, did they not articulate our request to

11:18:02AM 4 interview you prior to your testimony?

11:18:07AM 5 **A. I am not aware of that.**

11:18:07AM 6 MR. KELLY: May I have a moment?

11:18:11AM 7 THE COURT: Yes.

11:18:35AM 8 MR. KELLY: Your Honor, that's all the

11:18:36AM 9 questions I have. But I do need to approach.

11:19:01AM 10 (Sidebar conference.)

11:19:01AM 11 MR. KELLY: Your Honor, here's the difficulty:

11:19:03AM 12 It's not that big of a deal, but we did make the

11:19:07AM 13 request. Sheila indicated that she was contacted

11:19:10AM 14 and refused our request. It's in writing.

11:19:13AM 15 I just want to make sure somehow the jury

11:19:15AM 16 knows that. I don't know how to get that

11:19:17AM 17 information to the jury.

11:19:20AM 18 MR. HUGHES: Our understanding is we set the

11:19:22AM 19 interview up.

11:19:23AM 20 MS. POLK: We were working to set it up.

11:19:26AM 21 Your Honor, the state was working to set

11:19:29AM 22 up the requested interviews, including the

11:19:30AM 23 interview of Beverly Bunn, coordinating it through

11:19:32AM 24 her attorney. The defense then sent us a letter

11:19:35AM 25 and canceled their request to interview certain

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11:19:37AM 1 witnesses, including Beverly Bunn. There has been

11:19:40AM 2 a misrepresentation to the jury about what

11:19:43AM 3 happened.

11:19:46AM 4 MR. KELLY: Judge, I'm going to have -- with

11:19:47AM 5 your permission, I'm go to ask Mr. Li to address

11:19:50AM 6 this.

11:19:50AM 7 THE COURT: Also the technique for deposition.

11:19:53AM 8 If it got to a point of not doing that, this

11:19:55AM 9 person, Dr. Bunn, does not have a victim status.

11:20:00AM 10 So the defense had a right to do that.

11:20:03AM 11 Mr. Kelly, you just interjected something

11:20:07AM 12 that is, essentially, testimony about some

11:20:10AM 13 discovery procedures. It's not appropriate.

11:20:16AM 14 Anyway, you've closed your examination?

11:20:16AM 15 MR. KELLY: Thank you. I have.

11:20:18AM 16 THE COURT: Mr. Hughes, are you ready to

11:20:20AM 17 proceed?

11:20:21AM 18 MR. HUGHES: Yes, Your Honor.

11:20:22AM 19 THE COURT: Thank you.

11:20:32AM 20 (End of sidebar conference.)

11:20:36AM 21 THE COURT: Thank you, Mr. Kelly.

11:20:36AM 22 MR. KELLY: Thank you, Judge.

11:20:40AM 23 THE COURT: Mr. Hughes.

11:20:41AM 24 MR. HUGHES: Thank you, Your Honor.

11:20:41AM 25 ///

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11:20:41AM 1 **REDIRECT EXAMINATION**

11:20:50AM 2 BY MR. HUGHES:

11:20:50AM 3 **Q.** Good morning, Doctor.

11:20:54AM 4 **A. Good morning.**

11:20:56AM 5 **Q.** I've got a couple follow-up questions for

11:21:02AM 6 you. Mr. Kelly asked you, I believe, on Friday if

11:21:16AM 7 you knew whether Liz Neuman had participated or

11:21:23AM 8 chose to participate in the holotropic breathing.

11:21:28AM 9 Do you remember those questions?

11:21:29AM 10 **A. I do.**

11:21:30AM 11 **Q.** Do you know whether Dream Team members

11:21:32AM 12 were permitted to participate in the holotropic

11:21:34AM 13 breathing activity?

11:21:36AM 14 **A. I do not.**

11:21:36AM 15 **Q.** Did you see any of them participating?

11:21:40AM 16 **A. In the holotropic breathing, no.**

11:21:43AM 17 **Q.** In fact, were the Dream Team members

11:21:45AM 18 there to help out the participants during the

11:21:51AM 19 holotropic breathing exercises?

11:21:52AM 20 **A. My understanding, yes.**

11:21:53AM 21 **Q.** You were asked whether you knew if all

11:21:59AM 22 the activities that week were audiotaped. Do you

11:22:03AM 23 recall that question?

11:22:04AM 24 **A. I do.**

11:22:04AM 25 **Q.** Do you know whether the fellow running

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11:22:08AM 1 the audiotape audiotaped the sweat lodge or

11:22:12AM 2 Mr. Ray's words directly before the sweat lodge

11:22:15AM 3 when the people were down outside the sweat lodge?

11:22:17AM 4 **A. I don't know what -- I was just told they**

11:22:24AM 5 **were going to audiotape and videotape the whole**

11:22:27AM 6 **thing.**

11:22:27AM 7 **Q.** Do you recall seeing that individual down

11:22:30AM 8 there with his taping equipment?

11:22:31AM 9 **A. I don't recall.**

11:22:34AM 10 **Q.** You were asked about whether you knew if

11:22:40AM 11 Mr. Ray had played the Samurai Game like AT&T, and

11:22:46AM 12 I think he said Disney.

11:22:48AM 13 Do you remember that question?

11:22:48AM 14 **A. I do.**

11:22:49AM 15 **Q.** Do you know if the version of what

11:22:52AM 16 Mr. Ray calls the "Samurai Game" is similar or

11:22:56AM 17 anything like the Samurai Game played by other

11:22:59AM 18 corporations?

11:23:00AM 19 **A. I wouldn't know. This is the only time**

11:23:02AM 20 **I've ever played it.**

11:23:17AM 21 **Q.** In fact, you mentioned on Friday that the

11:23:19AM 22 Samurai Game was a metaphor to you. Can you tell

11:23:22AM 23 me or tell us what you meant by that.

11:23:24AM 24 **A. It was a metaphor of how you lived and**

11:23:33AM 25 **how you died.**

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- 11:23:34AM 1 Q. And what do you mean by that?
- 11:23:36AM 2 A. **Meaning that everybody wants to, I guess,**
- 11:23:52AM 3 **live to the best you can and be an honorable person**
- 11:24:00AM 4 **while you're alive and die an honorable death. But**
- 11:24:00AM 5 **no matter how you play the game, you die.**
- 11:24:08AM 6 Q. You were asked some questions about
- 11:24:12AM 7 dehydration and whether that was a factor or
- 11:24:21AM 8 necessary element for heat stroke.
- 11:24:24AM 9 Do you remember that?
- 11:24:24AM 10 A. **I do.**
- 11:24:25AM 11 Q. Did they cover whether -- in your medical
- 11:24:28AM 12 education did they cover heat stroke?
- 11:24:30AM 13 A. **No.**
- 11:24:31AM 14 Q. Do you know what the clinical criteria
- 11:24:35AM 15 for heat stroke are?
- 11:24:37AM 16 A. **I don't.**
- 11:24:44AM 17 Q. You were asked some questions about what
- 11:24:46AM 18 your guide on that Grand Canyon trip required the
- 11:24:53AM 19 participants to do. Do you remember that?
- 11:24:54AM 20 A. **I do.**
- 11:24:55AM 21 Q. I believe you said one of the things was
- 11:24:57AM 22 you had to get a medical screening?
- 11:24:59AM 23 A. **Correct.**
- 11:25:00AM 24 Q. Did your guide have any sort of a
- 11:25:06AM 25 first-aid kit along on that trip?

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- 11:25:08AM 1 A. **He did.**
- 11:25:09AM 2 Q. Do you know what was in the kit?
- 11:25:12AM 3 A. **We had obviously Band-aids, antiseptic**
- 11:25:18AM 4 **wipes and Moleskin for blisters on the feet. And**
- 11:25:23AM 5 **he had an EpiPen in case anybody had an allergic**
- 11:25:27AM 6 **reaction, anaphylactic shock. We had antibiotics,**
- 11:25:32AM 7 **we had pain medications. We had sutures, ace**
- 11:25:40AM 8 **bandages.**
- 11:25:40AM 9 Q. Did your guide talk to the participants
- 11:25:44AM 10 about the risks of heat stroke?
- 11:25:46AM 11 A. **He did.**
- 11:25:47AM 12 Q. And did he ask the participants to be on
- 11:25:51AM 13 the lookout for certain warning signs?
- 11:25:55AM 14 A. **He had us watch two DVD's. He had us**
- 11:26:01AM 15 **read a book. Every hour he checked to see how much**
- 11:26:04AM 16 **water we would drink. He would see how much water**
- 11:26:07AM 17 **we had before we left, and he monitored how much we**
- 11:26:10AM 18 **were still carrying with us as we went along.**
- 11:26:13AM 19 **He stopped every hour. He checked to**
- 11:26:16AM 20 **make sure we were eating salty snacks to help keep**
- 11:26:19AM 21 **the water retained. He also had us check the color**
- 11:26:27AM 22 **of our urine at least once a day to see what the**
- 11:26:28AM 23 **concentration -- if it was yellow, it was very**
- 11:26:29AM 24 **concentrated, we needed to hydrate more.**
- 11:26:31AM 25 Q. You mentioned your guide had you read and

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- 11:26:34AM 1 watch book or videos. What were the topic of the
- 11:26:37AM 2 shows?
- 11:26:37AM 3 A. **The dangers of hiking the Grand Canyon.**
- 11:26:44AM 4 Q. You were asked about Dr. Nell Wagoner.
- 11:26:49AM 5 Do you remember those questions?
- 11:26:51AM 6 A. **Not exactly.**
- 11:26:57AM 7 Q. Do you recall when you first found out
- 11:27:01AM 8 that Nell Wagoner was a doctor?
- 11:27:02AM 9 A. **I found out on Friday.**
- 11:27:05AM 10 Q. And who did you find out that from?
- 11:27:08AM 11 A. **Mr. Kelly.**
- 11:27:11AM 12 Q. Mr. Kelly asked you about attending
- 11:27:20AM 13 dental school. Do you recall that?
- 11:27:22AM 14 A. **I do.**
- 11:27:22AM 15 Q. When you attend dental school, do you get
- 11:27:26AM 16 to pick the different classes you take in dental
- 11:27:29AM 17 school?
- 11:27:31AM 18 A. **You do not.**
- 11:27:33AM 19 Q. If you want to get a medical degree or
- 11:27:38AM 20 dental degree from the school, do you have to
- 11:27:42AM 21 attend all the classes they tell you to?
- 11:27:45AM 22 A. **If you want to graduate.**
- 11:27:48AM 23 Q. You were asked some questions about the
- 11:27:56AM 24 briefing prior to the sweat lodge. Do you recall
- 11:27:58AM 25 that?

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- 11:27:58AM 1 A. **Yes.**
- 11:27:59AM 2 Q. Both on Friday and today?
- 11:28:02AM 3 A. **Correct.**
- 11:28:02AM 4 Q. And you were asked about whether you were
- 11:28:07AM 5 able to hydrate during the week prior to the sweat
- 11:28:10AM 6 lodge. Did you believe you had a sufficient time
- 11:28:15AM 7 to hydrate from the time you first learned about
- 11:28:18AM 8 the sweat lodge to the time it began?
- 11:28:20AM 9 A. **I did.**
- 11:28:30AM 10 Q. And how much time did you have from the
- 11:28:33AM 11 time you first learned about the sweat lodge to the
- 11:28:36AM 12 time the sweat lodge began?
- 11:28:38AM 13 A. **Two and a half hours.**
- 11:28:47AM 14 Q. Do you recall how much time you had from
- 11:28:53AM 15 the time from when the sweat lodge briefing was
- 11:28:58AM 16 conducted until the time the sweat lodge actually
- 11:29:02AM 17 began?
- 11:29:05AM 18 A. **I don't really understand.**
- 11:29:15AM 19 Q. Was there a briefing in the -- I believe
- 11:29:17AM 20 it was called the "Crystal Room" about the sweat
- 11:29:22AM 21 lodge?
- 11:29:23AM 22 A. **I do.**
- 11:29:25AM 23 Q. And when that briefing ended, do you
- 11:29:30AM 24 recall how much time you had from the time the
- 11:29:32AM 25 briefing ended until the time you were told to show

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11 29 35AM 1 up down at the sweat lodge area?

11 29 37AM 2 **A. 15 minutes.**

11 29 41AM 3 **Q. Earlier this morning you were asked some**

11 29 45AM 4 **questions about having your hair cut on Sunday. Do**

11 29 49AM 5 **you recall that?**

11 29 50AM 6 **A. I do.**

11 29 53AM 7 **Q. And you were asked whether you had a**

11 29 56AM 8 **choice on Sunday not to have your hair cut. And**

11 29 58AM 9 **you said you couldn't answer the question.**

11 30 00AM 10 **What did you mean by that?**

11 30 05AM 11 **A. I had arrived late, and the hair cutting**

11 30 08AM 12 **activity or event had already passed. It was over.**

11 30 11AM 13 **And so everyone was eating dinner by the time I**

11 30 15AM 14 **arrived. So I wasn't even aware of the**

11 30 18AM 15 **hair-cutting situation until I had gone back to my**

11 30 23AM 16 **room and Julie, my roommate, had shaved her head.**

11 30 25AM 17 **And she had just explained to me what had just**

11 30 28AM 18 **happened.**

11 30 34AM 19 **Q. Mr. Kelly asked you whether you heard**

11 30 38AM 20 **Mr. Ray say words to the effect of I don't give an**

11 30 41AM 21 **"F" what you do. Do you remember that question?**

11 30 42AM 22 **A. I do.**

11 30 47AM 23 **Q. Was that Mr. Ray's response to the woman**

11 30 51AM 24 **with the medication issue, or was that Mr. Ray's**

11 30 51AM 25 **response when you told him that you were getting**

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11 30 53AM 1 **your hair cut?**

11 30 55AM 2 **A. That was a response to getting my -- when**

11 30 58AM 3 **I finally had made the decision to get my hair cut.**

11 31 02AM 4 **That's exactly what he said.**

11 31 06AM 5 **Q. Mr. Kelly asked you some questions about**

11 31 09AM 6 **your understanding of what your topics of**

11 31 14AM 7 **journaling were supposed to be. Who told you what**

11 31 16AM 8 **to write in your journal?**

11 31 18AM 9 **A. Mr. Ray.**

11 31 18AM 10 **Q. Did he tell you the topics of what to**

11 31 21AM 11 **write?**

11 31 21AM 12 **A. He gave us a hand out.**

11 31 23AM 13 **Q. You were right after that asked about the**

11 31 27AM 14 **people speaking their intentions at the microphone.**

11 31 31AM 15 **Do you recall that question this morning?**

11 31 32AM 16 **A. Yes.**

11 31 32AM 17 **Q. Did the speaking of intentions at the**

11 31 35AM 18 **microphone -- were those intentions the same topic**

11 31 38AM 19 **as the topic that you were to be writing in your**

11 31 42AM 20 **journal about?**

11 31 43AM 21 **A. For me, no.**

11 31 47AM 22 **Q. What did Mr. Ray say about that?**

11 31 55AM 23 **A. I don't know.**

11 31 58AM 24 **Q. Do you recall what Mr. Ray asked people**

11 31 58AM 25 **to speak about at the microphone at the time they**

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11 32 02AM 1 **stood up to talk about their intentions?**

11 32 06AM 2 **A. My recollection is to state why you were**

11 32 10AM 3 **actually there, what you intended to do to work**

11 32 15AM 4 **through what you saw as what your problems were.**

11 32 18AM 5 **Q. And what did Mr. Ray tell the**

11 32 21AM 6 **participants to write in their journals?**

11 32 24AM 7 **A. He gave us the hand out. And it states**

11 32 27AM 8 **to talk about your sexual experiences, how you**

11 32 31AM 9 **learned about sex, who all your sexual partners**

11 32 35AM 10 **were, every sexual experience you ever had and keep**

11 32 38AM 11 **journaling until you run out.**

11 32 41AM 12 **He said that sex was one of the most**

11 32 44AM 13 **stimulating ideas or stimulating things to the body**

11 32 46AM 14 **that you should be able to express yourself, and**

11 32 54AM 15 **you would be able to get to the core of the things**

11 32 56AM 16 **that were bothering you through that while you're**

11 32 59AM 17 **journaling.**

11 32 59AM 18 **Q. Did you mention or did you tell Mr. Kelly**

11 33 02AM 19 **that there was another topic that he asked you to**

11 33 04AM 20 **write about when you ran out on that topic?**

11 33 07AM 21 **A. It was loss and death.**

11 33 08AM 22 **Q. And what did he tell you to write about**

11 33 10AM 23 **loss and death?**

11 33 11AM 24 **A. He didn't expand on it. He just said if**

11 33 17AM 25 **you run out of -- for me what I heard is if you run**

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11 33 20AM 1 **out of the sex, then you need to go to another more**

11 33 26AM 2 **highly reactive or highly stimulating to your**

11 33 28AM 3 **senses. And that would be loss or death, something**

11 33 32AM 4 **that actually emotionally impacts you very, very**

11 33 35AM 5 **strongly.**

11 33 38AM 6 **Q. You were asked this morning some**

11 33 45AM 7 **questions about Mr. Ray's comments about someone**

11 33 50AM 8 **missing yoga. Do you remember those questions this**

11 33 53AM 9 **morning?**

11 33 53AM 10 **A. I do.**

11 33 53AM 11 **Q. Did Mr. Ray bring up that subject only**

11 33 57AM 12 **once during the week?**

11 33 58AM 13 **A. About missing yoga?**

11 34 04AM 14 **Q. About attending yoga or about a**

11 34 06AM 15 **particular person missing yoga.**

11 34 08AM 16 **A. He brought it up, as Mr. Kelly read. But**

11 34 15AM 17 **then when he found out who it was, then he had**

11 34 18AM 18 **brought it up a second time because he addressed**

11 34 21AM 19 **the person who didn't attend the yoga class.**

11 34 26AM 20 **Q. Who are you referring to as "he"?**

11 34 28AM 21 **A. Mr. Ray.**

11 34 29AM 22 **Q. And when did that second conversation**

11 34 31AM 23 **take place? Was it at the same time as the first**

11 34 33AM 24 **one?**

11 34 33AM 25 **A. No.**

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11:34:24AM 1 Q. Did you have an opportunity late last  
11:34:53AM 2 week to listen to some audio of that second  
11:35:00AM 3 conversation when Mr. Ray found out who had missed  
11:35:07AM 4 yoga?

11:35:07AM 5 A. I did.

11:35:12AM 6 Q. Did that conversation on the audio clip  
11:35:15AM 7 truly and accurately reflect what you recall  
11:35:17AM 8 Mr. Ray had to say about that?

11:35:19AM 9 A. It did.

11:35:27AM 10 MR. HUGHES: Your Honor, the state would move  
11:35:29AM 11 the admission of Exhibit 756, which is the clip the  
11:35:33AM 12 witness is talking about.

11:35:35AM 13 THE COURT: Counsel?

11:35:37AM 14 MR. KELLY: Your Honor, I object. First I've  
11:35:38AM 15 seen it. Taken out of context.

11:35:49AM 16 THE COURT: I'm going to have to see the  
11:35:51AM 17 attorneys.

11:36:05AM 18 (Sidebar conference.)

11:36:05AM 19 THE COURT: Okay. Here we go. Mr. Kelly was  
11:36:08AM 20 reading from a transcript before. Mr. Hughes  
11:36:13AM 21 thought the other part should be included. But  
11:36:16AM 22 this is apparently a different section altogether  
11:36:19AM 23 and different time altogether.

11:36:20AM 24 Mr. Hughes.

11:36:21AM 25 MR. HUGHES: It is. Mr. Kelly read from a  
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11:36:24AM 1 transcript about the first conversation not about  
11:36:27AM 2 the second one. I think obviously the second one  
11:36:31AM 3 I'd lay the foundation as to why it's relevant to  
11:36:34AM 4 the first. This has been on the master audio that  
11:36:37AM 5 we provided to the defense.

11:36:39AM 6 I believe we specifically told the  
11:36:40AM 7 defense last week that we'd be trying to introduce  
11:36:43AM 8 this particular clip through another witness who  
11:36:45AM 9 was scheduled for last week. So the defense has  
11:36:48AM 10 had it for a while now. I believe Ms. Polk had a  
11:36:54AM 11 communication requesting additional context if  
11:36:56AM 12 there was going to be context.

11:36:59AM 13 THE COURT: What -- is it only Mr. Ray's voice  
11:37:03AM 14 on the clip?

11:37:04AM 15 MR. HUGHES: Yes, Your Honor.

11:37:07AM 16 THE COURT: Mr. Kelly.

11:37:08AM 17 MR. KELLY: Judge, here's the problem: During  
11:37:13AM 18 direct examination the witness makes statements.  
11:37:18AM 19 Some of them I would submit are not true. They've  
11:37:21AM 20 been exaggerated, as I indicated on  
11:37:24AM 21 cross-examination.

11:37:31AM 22 So then as all trials are, you go back to  
11:37:31AM 23 the transcript where the actual statement is made  
11:37:34AM 24 and then use that statement to impeach her  
11:37:37AM 25 credibility. What the state is doing here is there

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11:37:40AM 1 is not even a question before the witness. They  
11:37:43AM 2 want to publish this exhibit and then ask the  
11:37:48AM 3 follow-up question is that what he said. The  
11:37:51AM 4 correct statement is what did he say?

11:37:56AM 5 This is improper redirect. It's improper  
11:37:59AM 6 use of a transcript. And this is what we've been  
11:38:03AM 7 fighting with. My very first witness, Sheila used  
11:38:08AM 8 these clips on redirect, not on direct. And that's  
11:38:11AM 9 not proper. That is not a proper question. Have  
11:38:14AM 10 you hear this transcript? Okay. Now I'm going to  
11:38:17AM 11 play it. Then ask the question is that what he  
11:38:19AM 12 said.

11:38:19AM 13 The question is what did he say. And  
11:38:22AM 14 then if this witness can rehabilitate her testimony  
11:38:25AM 15 after being impeached on cross based on that,  
11:38:28AM 16 that's fine. But this is highly improper. Of  
11:38:34AM 17 course, I've joined in all the objections  
11:38:37AM 18 articulated by Mr. Li.

11:38:38AM 19 THE COURT: The only objections -- I want to  
11:38:40AM 20 make that clear. Mr. Li has made First Amendment  
11:38:42AM 21 objections specifically to the excerpt from  
11:38:46AM 22 Mr. Shore. I think it was primarily First  
11:38:49AM 23 Amendment, and I don't know if he got into 803. So  
11:38:52AM 24 I'm not going to say that there is just blanket  
11:38:54AM 25 objections to everything that comes in. But this  
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11:38:57AM 1 is just so unusual to have tapes, recordings,  
11:39:04AM 2 coming up.

11:39:07AM 3 MR. KELLY: Judge --

11:39:09AM 4 MR. HUGHES: This is something that Mr. Kelly,  
11:39:12AM 5 in the state's opinion, created a misconception  
11:39:14AM 6 with the jury that he was asking her in this  
11:39:19AM 7 transcript that I've just read to you, he never  
11:39:21AM 8 chastised a particular person because she had  
11:39:24AM 9 testified last week that's what he did.

11:39:26AM 10 Mr. Kelly found another place where  
11:39:30AM 11 earlier, which didn't really pertain to what the  
11:39:33AM 12 witness had talked about on direct, and then left  
11:39:36AM 13 the jury with the misconception that Mr. Ray never  
11:39:38AM 14 chastised this person for missing yoga, which is  
11:39:43AM 15 exactly what he did. And not only does he chastise  
11:39:47AM 16 her, but he tells people that attendance at yoga is  
11:39:50AM 17 mandatory, which is relevant to proving that people  
11:39:54AM 18 had to go to his events.

11:39:57AM 19 With respect to being limited only to use  
11:40:00AM 20 the recording to refresh the witness's memory as to  
11:40:03AM 21 what he said, that's one possible use of an  
11:40:06AM 22 exhibit. But another possible use of an exhibit is  
11:40:08AM 23 to prove that this is what Mr. Ray said. And  
11:40:11AM 24 that's the later use the state intends to use the  
11:40:14AM 25 audio recording, which, again, has been in the

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11:40:16AM 1 defendant's possession now for at least a week, if  
 11:40:19AM 2 not longer.  
 11:40:21AM 3 MR. KELLY: Judge, if that's the basis, then  
 11:40:24AM 4 our question is why doesn't he just ask her? This  
 11:40:27AM 5 exhibit is not in evidence. I'm objecting for all  
 11:40:31AM 6 the reasons articulated. I've heard one rule  
 11:40:35AM 7 cited. We know 106 and rules of impeaching  
 11:40:38AM 8 witnesses in prior inconsistent statements,  
 11:40:40AM 9 et cetera. And we can ask did you hear on a prior  
 11:40:42AM 10 occasion. And now the question is simply whatever  
 11:40:46AM 11 Mr. Hughes believes is the truth, ask the witness.  
 11:40:50AM 12 But this idea of playing a clip and saying oh, does  
 11:40:53AM 13 that refresh your recollection? Yes. That's  
 11:40:55AM 14 highly improper.  
 11:40:57AM 15 MR. HUGHES: I'm not calling it to ask her  
 11:40:58AM 16 does that refresh her recollection.  
 11:41:00AM 17 MR. KELLY: What is the purpose?  
 11:41:02AM 18 MR. HUGHES: The clip is the higher evidence  
 11:41:04AM 19 or the greater evidence of what Mr. Ray said.  
 11:41:06AM 20 MR. KELLY: He should have admitted it during  
 11:41:08AM 21 his direct.  
 11:41:10AM 22 MR. HUGHES: It wasn't opened until Mr. Kelly  
 11:41:15AM 23 brought this up this morning.  
 11:41:15AM 24 THE COURT: It's a proper subject of redirect.  
 11:41:17AM 25 It's a proper subject of redirect.

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11:41:20AM 1 MR. KELLY: Judge, I have no issue with the  
 11:41:22AM 2 subject matter. I have the issue with the  
 11:41:24AM 3 procedure. It's highly improper to play a tape in  
 11:41:28AM 4 front of a jury that has not been admitted into  
 11:41:30AM 5 evidence and then ask a witness, is that what you  
 11:41:32AM 6 heard? Why don't we just ask the witness what she  
 11:41:36AM 7 heard.  
 11:41:37AM 8 THE COURT: So you've got authority that  
 11:41:39AM 9 exhibits can't be admitted on redirect if they're  
 11:41:42AM 10 pertinent?  
 11:41:43AM 11 MR. KELLY: No. I'm saying how can this  
 11:41:45AM 12 witness be the foundational witness to admit that  
 11:41:48AM 13 exhibit?  
 11:41:48AM 14 MR. HUGHES: She just laid the foundation. If  
 11:41:50AM 15 we were to take Mr. Kelly's example a step further,  
 11:41:54AM 16 I could only ever ask a witnesses what did you see,  
 11:41:57AM 17 but I could never offer a photograph of what they  
 11:42:00AM 18 actually saw. There would be no purpose of  
 11:42:03AM 19 entering photographs.  
 11:42:05AM 20 THE COURT: Well, it's been represented. It's  
 11:42:07AM 21 Mr. Ray's statement. That's how it's represented.  
 11:42:13AM 22 The foundation has been supplied. It's in the --  
 11:42:13AM 23 it relates to the topic that's in question. The  
 11:42:18AM 24 defense concedes it's an appropriate topic of  
 11:42:21AM 25 redirect.

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11:42:26AM 1 MR. KELLY: Judge, please understand, I joined  
 11:42:29AM 2 in all of Mr. Li's prior arguments about the  
 11:42:32AM 3 admissibility in general. You asked me a specific  
 11:42:35AM 4 question. Could the state use an exhibit in  
 11:42:37AM 5 redirect? I said absolutely.  
 11:42:39AM 6 But I'm objecting to this exhibit. I  
 11:42:42AM 7 guess we should -- for the record, we're talking  
 11:42:48AM 8 about 756.  
 11:42:47AM 9 THE COURT: As I said, Mr. Li made a general  
 11:42:51AM 10 First Amendment objection, and then we dealt with  
 11:42:53AM 11 just one. And now your objections you've  
 11:42:55AM 12 incorporated the First Amendment objection. And  
 11:42:58AM 13 what else?  
 11:42:59AM 14 MR. KELLY: Relevance. We've talked  
 11:43:01AM 15 extensively about relevance. We're not waiving  
 11:43:04AM 16 that. And now more recently the form of the  
 11:43:06AM 17 question, I believe, is improper. If she wants to  
 11:43:10AM 18 explain something on cross-examination, she can.  
 11:43:13AM 19 But we're going to go through an entire trial --  
 11:43:19AM 20 I've never seen this done before.  
 11:43:17AM 21 THE COURT: I haven't either. But I'm not  
 11:43:20AM 22 saying that means it's not something that can be  
 11:43:22AM 23 done.  
 11:43:24AM 24 MR. KELLY: Judge, I just have to state for  
 11:43:26AM 25 the record I incorporated all the objections

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11:43:28AM 1 articulated and the motion to exclude state's 107  
 11:43:32AM 2 seven audio clips filed on March 14.  
 11:43:35AM 3 THE COURT: The thing is, if it doesn't come  
 11:43:38AM 4 in on this testimony now, then it's played at a  
 11:43:42AM 5 later time, and then it's done at a time when the  
 11:43:44AM 6 witness can't address it either. That's the other  
 11:43:47AM 7 issue that comes up here.  
 11:43:48AM 8 So what it may entail is -- and I've  
 11:43:51AM 9 allowed this once before, the briefing with the  
 11:43:54AM 10 defense. Directed recross if that's necessary.  
 11:43:58AM 11 But if there is proper foundation, it's only  
 11:44:01AM 12 Mr. Ray and relates to that topic -- I haven't  
 11:44:04AM 13 heard it. I'm at a disadvantage. I'm going to  
 11:44:06AM 14 overrule it and allow that.  
 11:44:08AM 15 MR. KELLY: Your Honor, if I may correct the  
 11:44:10AM 16 record as to my previous sidebar. Here's the  
 11:44:14AM 17 actual letter authored by Ms. Polk that states  
 11:44:17AM 18 Dr. Beverly Bunn, through her counsel, Bob  
 11:44:20AM 19 Magnanini, has informed the state that she will not  
 11:44:22AM 20 consent to a defense interview. So I did have a  
 11:44:25AM 21 good-faith basis to -- that is the letter. I  
 11:44:28AM 22 understand -- December 23rd. Substantially  
 11:44:35AM 23 different than what Ms. Polk --  
 11:44:37AM 24 THE COURT: It should not be interjected from  
 11:44:38AM 25 either way. There is a mechanism for a deposition

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11:44:41AM 1 if you really want to get somebody interviewed.

11:44:43AM 2 And you shouldn't have that out in front of a jury.

11:44:47AM 3 MR. KELLY: I understand. I wanted to clarify

11:44:50AM 4 the record.

11:44:51AM 5 THE COURT: It's appropriate to balance that.

11:44:54AM 6 But just stay away from those things. It's

11:44:56AM 7 overruled. That may be played if there is

11:44:58AM 8 foundation.

11:45:07AM 9 MR. KELLY: Judge, my objections are

11:45:09AM 10 preserved. I don't want to object in front of a

11:45:11AM 11 jury.

11:45:12AM 12 THE COURT: For this exhibit absolutely.

11:45:14AM 13 MR. KELLY: Thank you.

11:45:22AM 14 (End of sidebar conference.)

11:45:22AM 15 THE COURT: Mr. Hughes, when you're ready. If

11:45:25AM 16 you would go through the foundational questions.

11:45:28AM 17 MR. HUGHES: Thank you.

11:45:29AM 18 Q. Doctor, do you recall a time in the

11:45:32AM 19 seminar that week when Mr. Ray found out the

11:45:37AM 20 identity of who had missed the yoga practice?

11:45:40AM 21 A. I do.

11:45:40AM 22 Q. And was there some discussion by Mr. Ray

11:45:45AM 23 about this woman's failure to attend yoga?

11:45:50AM 24 A. Yes.

11:45:51AM 25 Q. And did you listen to a clip on Friday

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11:45:54AM 1 that accurately contained that discussion by

11:45:58AM 2 Mr. Ray about the failure to appear at yoga?

11:46:03AM 3 A. I did.

11:46:05AM 4 MR. HUGHES: Your Honor, the state would move

11:46:06AM 5 the admission of Exhibit 756.

11:46:09AM 6 THE COURT: I acknowledge the discussion here

11:46:11AM 7 at bench. And it is admitted.

11:46:14AM 8 (Exhibit 756 admitted.)

11:46:17AM 9 MR. HUGHES: Your Honor, may I publish it for

11:46:20AM 10 the jury?

11:46:20AM 11 THE COURT: Yes.

11:46:43AM 12 (Exhibit 756 played.)

11:47:48AM 13 Q. BY MR. HUGHES: Doctor, did you ever get

11:47:51AM 14 called out publicly during the week?

11:47:54AM 15 A. I did not.

11:47:57AM 16 Q. Was that something you would have wanted

11:48:00AM 17 to happen?

11:48:00AM 18 A. No.

11:48:01AM 19 Q. Doctor, you were asked about Exhibit 326,

11:48:29AM 20 which is in evidence. Do you remember that?

11:48:35AM 21 The photograph --

11:48:37AM 22 Your Honor, may I approach the witness?

11:48:37AM 23 THE COURT: Yes.

11:48:40AM 24 Q. BY MR. HUGHES: Do you remember that

11:48:41AM 25 photograph?

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11:48:41AM 1 A. Yes.

11:48:43AM 2 Q. Do you know when Exhibit 326, that

11:48:56AM 3 photograph, was taken?

11:49:00AM 4 A. I do not.

11:49:01AM 5 Q. Were the tarps exposed as they are shown

11:49:07AM 6 in Exhibit 326 while you were inside the sweat

11:49:10AM 7 lodge?

11:49:10AM 8 A. They were not.

11:49:11AM 9 Q. Could that photograph have been taken

11:49:13AM 10 while the sweat lodge is being dismantled by the

11:49:17AM 11 sheriff's department?

11:49:19AM 12 MR. KELLY: Your Honor, I'm going to object.

11:49:22AM 13 That's speculation. I will stipulate that

11:49:25AM 14 Detective Diskin took this photograph after

11:49:28AM 15 Dr. Bunn left.

11:49:30AM 16 THE COURT: Sustained.

11:49:35AM 17 Q. BY MR. HUGHES: In fact, inside the sweat

11:49:38AM 18 lodge could you see tarps at all?

11:49:40AM 19 A. No.

11:49:41AM 20 Q. What could you see covering the walls

11:49:43AM 21 inside the sweat lodge?

11:49:44AM 22 A. It was more like blue or green. It was

11:49:49AM 23 like a blanket or sleeping bags. There was just a

11:49:56AM 24 lot -- more of a cloth, not a tarp.

11:50:03AM 25 Q. Doctor, you were asked about Kirby

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11:50:20AM 1 Brown's tobacco pouches. Do you remember that?

11:50:27AM 2 A. They're right here.

11:50:37AM 3 THE COURT: Mr. Hughes?

11:50:39AM 4 MR. HUGHES: Thank you. May I approach?

11:50:40AM 5 THE COURT: Yes.

11:50:42AM 6 Q. BY MR. HUGHES: Can you tell the jury how

11:50:47AM 7 it is you know the objects depicted in Exhibit 325

11:50:54AM 8 are Ms. Brown's tobacco pouches.

11:50:58AM 9 A. Kirby was an artist. And to be honest

11:51:03AM 10 with you, when we actually went to get changed for

11:51:06AM 11 the sweat lodge, and we pulled out our pouches. We

11:51:08AM 12 were going through the pouches. We were ripping

11:51:11AM 13 each other's journals up, helping each other.

11:51:15AM 14 That's when I looked at her pouches and I

11:51:16AM 15 looked at my pouches. And hers were very, very

11:51:20AM 16 eccentric and decorated. That's what hers looked

11:51:25AM 17 like. Mine was just a string with seven pouches on

11:51:29AM 18 it.

11:51:29AM 19 Q. You were asked if you knew what location

11:51:33AM 20 in the sweat lodge those pouches, which are shown

11:51:38AM 21 in 325, were taken. Do you remember that?

11:51:40AM 22 A. Yes.

11:51:40AM 23 Q. Do you have an idea as to where in the

11:51:43AM 24 sweat lodge those pouches were hanging?

11:51:49AM 25 A. The ones in the picture?

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11:51:22AM 1 Q. The ones in the picture.

11:51:53AM 2 A. **I can't orient myself from the picture.**

11:51:57AM 3 Q. What would you need to be able to

11:52:00AM 4 orientate yourself as far as where in the sweat

11:52:05AM 5 lodge those were found?

11:52:05AM 6 A. **Most likely the door.**

11:52:07AM 7 Q. Okay. You were asked by Mr. Kelly if you

11:52:26AM 8 told the detectives that you were the bullet in the

11:52:29AM 9 gun to execute James Ray. Do you remember that

11:52:32AM 10 question?

11:52:34AM 11 MR. KELLY: Your Honor, misstates the

11:52:35AM 12 evidence.

11:52:36AM 13 THE COURT: Sustained.

11:52:36AM 14 Q. BY MR. HUGHES: Did you ever say you were

11:52:40AM 15 going to be a bullet in a gun to execute Mr. Ray?

11:52:43AM 16 A. **I did not.**

11:52:44AM 17 Q. Did you tell the detective that you felt

11:52:47AM 18 like you were a bullet in the gun?

11:52:48AM 19 A. **I did.**

11:52:51AM 20 Q. Do you remember the context around that

11:52:54AM 21 conversation with the detective?

11:52:56AM 22 A. **I do.**

11:52:57AM 23 Q. And what -- do you remember what day it

11:53:00AM 24 is that you spoke to that detective?

11:53:02AM 25 A. **Detective Willingham?**  
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11:53:06AM 1 Q. Yes.

11:53:07AM 2 A. **I spoke to Detective Willingham on**

11:53:10AM 3 **October 15, the same day as --**

11:53:12AM 4 Q. Do you recall what the context was, then,

11:53:15AM 5 around the statement Mr. Kelly read,

11:53:25AM 6 Ms. Willingham's statement? That's very concerning

11:53:27AM 7 because I kind of feel like I'm the bullet in the

11:53:30AM 8 gun, is your response, because I feel like I have

11:53:33AM 9 so much recall of people, of the situation, of

11:53:36AM 10 where the assistants were, what the help was, what

11:53:40AM 11 was going on, but I don't know if anybody else is

11:53:44AM 12 talking. I just don't know.

11:53:46AM 13 Just prior to that statement had you told

11:53:49AM 14 the detective about a concern you had about whether

11:53:52AM 15 other people were talking to her?

11:53:54AM 16 MR. KELLY: Your Honor, object. Leading

11:53:57AM 17 question.

11:53:57AM 18 THE COURT: Sustained.

11:53:59AM 19 MR. HUGHES: Your Honor, pursuant to Rule 106,

11:54:02AM 20 I'd ask to read the context surrounding the

11:54:04AM 21 statement Mr. Kelly read to the witness.

11:54:12AM 22 MR. KELLY: Your Honor, object. He's taking

11:54:16AM 23 it out of context. It's also subject to an earlier

11:54:17AM 24 ruling of this court.

11:54:17AM 25 THE COURT: Sustained.  
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11:54:19AM 1 MR. HUGHES: Your Honor, may we approach?

11:54:22AM 2 THE COURT: Sustained. No.

11:54:26AM 3 Q. BY MR. HUGHES: Do you recall what the

11:54:28AM 4 context was when you stated what Mr. Kelly read to

11:54:33AM 5 you: I don't know if anybody else is talking --

11:54:37AM 6 MR. KELLY: Your Honor, objection. Just asked

11:54:40AM 7 and answered, objected to and sustained.

11:54:42AM 8 THE COURT: Sustained.

11:54:50AM 9 Q. BY MR. HUGHES: You were asked some

11:54:51AM 10 questions about how far you were sitting from

11:54:55AM 11 Kirby. Do you remember that?

11:54:56AM 12 A. **I do.**

11:54:57AM 13 Q. And you were asked whether you heard a

11:55:02AM 14 woman saying she's not breathing or something along

11:55:06AM 15 those lines. Do you recall that?

11:55:07AM 16 A. **I do.**

11:55:09AM 17 Q. Were you still sitting in the area that

11:55:11AM 18 you demonstrated to the jury when you heard those

11:55:15AM 19 comments coming from the man?

11:55:19AM 20 A. **I was not sitting near Kirby at that**

11:55:22AM 21 **time.**

11:55:22AM 22 Q. At what round did you hear the man making

11:55:26AM 23 those comments?

11:55:27AM 24 A. **At the end of round 6.**

11:55:30AM 25 Q. And at what round had you changed  
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11:55:33AM 1 positions?

11:55:33AM 2 A. **The end of round 4.**

11:55:42AM 3 Q. You were asked whether you made the

11:55:46AM 4 decision to move over by Liz Neuman, and you said

11:55:49AM 5 you couldn't answer the question. Can you tell us

11:55:51AM 6 what you mean by that.

11:55:52AM 7 A. **I didn't exactly know where Liz Neuman**

11:55:58AM 8 **was sitting. I knew the people that I actually**

11:56:02AM 9 **went in and sat between and who I was around --**

11:56:06AM 10 **Jeanne and Greg. And Liz Neuman was close by. But**

11:56:10AM 11 **I know that more from where she was taken out of**

11:56:14AM 12 **the tent, not when I was in the tent.**

11:56:17AM 13 Q. At the time you were in the sweat lodge,

11:56:19AM 14 did you know that -- where Liz Neuman was sitting?

11:56:22AM 15 A. **I did not.**

11:56:26AM 16 Q. Do you even know how many people were

11:56:30AM 17 sitting between you and Liz once you moved to that

11:56:34AM 18 new location?

11:56:35AM 19 A. **Not exactly.**

11:56:38AM 20 Q. You told Mr. Kelly that Kirby had a Dream

11:56:49AM 21 Team mentor but also worked with James Ray. Can

11:56:52AM 22 you tell us how you know that she was also working

11:56:55AM 23 with James Ray directly.

11:56:58AM 24 A. **When we were journaling sometimes or we**

11:57:01AM 25 **had gone through a meditation, and then we were to**  
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11:57:04AM **1 journal, people would actually go up. And Mr. Ray**  
 11:57:11AM **2 would grant them some time or they would deal with**  
 11:57:13AM **3 their Dream Team member. And I know that Kirby**  
 11:57:15AM **4 went up and spoke with Mr. Ray a couple times.**

11:57:17AM **5 Q. Is that something you witnessed?**

11:57:20AM **6 A. Yes.**

11:57:24AM **7 Q. You were -- you said you couldn't answer**  
 11:57:28AM **8 a question about whether you would agree if Nell**  
 11:57:34AM **9 had testified that Mr. Ray made a comment about a**  
 11:57:38AM **10 flashlight.**

11:57:40AM **11 Why couldn't you answer that question?**

11:57:43AM **12 A. Because I don't think it's up to me to**  
 11:57:48AM **13 disagree with what Nell said on the stand. But I**  
 11:57:51AM **14 know that we were told not to bring anything other**  
 11:57:56AM **15 than our pouches into the tent.**

11:57:59AM **16 So -- I mean, I hear heard him say, where**  
 11:58:05AM **17 is the light coming from? Where is the light**  
 11:58:09AM **18 coming from? I think it would be an absurd thing**  
 11:58:12AM **19 to say flashlight. We couldn't bring anything into**  
 11:58:15AM **20 the tent. We had to take off all our jewelry and**  
 11:58:15AM **21 everything.**

11:58:15AM **22 Q. Did you ever hear Mr. Ray mention a**  
 11:58:17AM **23 flashlight inside?**

11:58:18AM **24 A. I did not.**

11:58:23AM **25 MR. HUGHES: Your Honor, it's noon. Would you**  
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11:58:25AM **1 like me to break off at this point?**

11:58:28AM **2 THE COURT: Yes, if you have additional**  
 11:58:33AM **3 redirect.**

11:58:34AM **4 MR. HUGHES: I do.**

11:58:34AM **5 THE COURT: Ladies and gentlemen, Dr. Bunn, we**  
 11:58:38AM **6 will take the noon recess. Ladies and gentlemen,**  
 11:58:38AM **7 please remember the admonition.**

11:58:41AM **8 And, Dr. Bunn, the rule of exclusion I've**  
 11:58:44AM **9 discussed with you at some length.**

11:58:45AM **10 Please be back in the jury room at 1:30.**

11:58:50AM **11 Thank you.**

11:58:50AM **12 (Recess.)**

11:58:50AM **13 (Proceedings continued outside presence**  
 11:58:50AM **14 of jury.)**

01:30:51PM **15 THE COURT: The state informed me that they**  
 01:30:53PM **16 wanted to raise a legal matter. If the parties are**  
 01:30:57PM **17 ready with that.**

01:30:58PM **18 We're back on the record in State versus**  
 01:31:00PM **19 James Arthur Ray with Mr. Ray and the attorneys**  
 01:31:02PM **20 present. The jury is not.**

01:31:04PM **21 As I've just said a minute ago, I was**  
 01:31:11PM **22 just informed by the bailiff, Mr. Hughes, I think**  
 01:31:11PM **23 you had something you wanted to raise.**

01:31:14PM **24 MR. HUGHES: Your Honor. Thank you.**

01:31:15PM **25 Your Honor, the state would move the**  
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01:31:18PM **1 Court to reconsider its ruling on Friday precluding**  
 01:31:21PM **2 Dr. Bunn from discussing the defendant's statements**  
 01:31:25PM **3 during this conference call that took place after**  
 01:31:27PM **4 the sweat lodge to which the doctor was a party.**

01:31:31PM **5 At the time the defendant argued that the**  
 01:31:35PM **6 state had failed to disclose that statement. Your**  
 01:31:38PM **7 Honor, for two reasons I'd ask the Court to**  
 01:31:42PM **8 reconsider that ruling.**

01:31:43PM **9 First, Rule 15 does require the state to**  
 01:31:47PM **10 disclose a defendant's statements that it intends**  
 01:31:50PM **11 to use. However, 15.4 limits that by its**  
 01:31:55PM **12 definition of "statement." And it limits statement**  
 01:31:58PM **13 to a writing, signed or otherwise adopted by a**  
 01:32:02PM **14 person; a mechanical, electrical, or other**  
 01:32:05PM **15 recording of a person's oral communication, or a**  
 01:32:07PM **16 writing containing a verbatim record.**

01:32:09PM **17 In other words, under Rule 15 the state**  
 01:32:11PM **18 is required to disclose the defendant's statements**  
 01:32:14PM **19 when that statement is memorialized in some form**  
 01:32:17PM **20 that the state intends to use.**

01:32:19PM **21 In this case what the defense has asked**  
 01:32:21PM **22 to have precluded is not a statement as defined by**  
 01:32:24PM **23 the rule, but the witness's memory or knowledge of**  
 01:32:27PM **24 that statement. There's no requirement under**  
 01:32:30PM **25 Rule 15 that we disclose a witness's entire memory**  
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01:32:33PM **1 or knowledge of what the defendant said. Doing**  
 01:32:37PM **2 that would have an absurd result.**

01:32:40PM **3 A witness could only testify to the maybe**  
 01:32:43PM **4 15 minutes or 30 minutes of things that she talks**  
 01:32:46PM **5 about in an interview as opposed to hours of**  
 01:32:48PM **6 testimony that you normally have. So for that**  
 01:32:51PM **7 reasons, I'd ask the Court to reconsider.**

01:32:53PM **8 Moreover, today the defendant asked on**  
 01:32:56PM **9 cross-examination about Defense Exhibit 617 and**  
 01:33:00PM **10 read a portion of that on page 40 into the record.**  
 01:33:04PM **11 I objected on Rule 106 asking for more context to**  
 01:33:08PM **12 be read, and Your Honor indicated that I could**  
 01:33:10PM **13 provide the context when I did my redirect.**

01:33:13PM **14 I tried to get into that on redirect, and**  
 01:33:15PM **15 it was right before lunch, and there was objections**  
 01:33:18PM **16 to it.**

01:33:18PM **17 Your Honor, specifically, the defense**  
 01:33:21PM **18 read into the record Willingham's statement that's**  
 01:33:25PM **19 very concerning and then Bunn's response to that,**  
 01:33:28PM **20 which is, because I kind of feel like I'm the**  
 01:33:34PM **21 bullet in the gun. Because I feel like I have so**  
 01:33:37PM **22 much recall of people, of the situation, of where**  
 01:33:40PM **23 the assistants were, what the help was, what was**  
 01:33:43PM **24 going on 2-- and this is the critical part they**  
 01:33:46PM **25 read in today -- but I don't know if anybody else**

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01 33 48PM 1 is talking. I just don't know.

01 33 51PM 2 That context to that statement, Your

01 33 53PM 3 Honor, is her comment immediately before that which

01 34 00PM 4 is she's -- Dr. Bunn's talking about the conference

01 34 04PM 5 call. And she says, right. Right. And I'm

01 34 07PM 6 referring now to line 10, and, again, they started,

01 34 08PM 7 I believe, at line 15.

01 34 10PM 8 Line 10 of the transcript on page 40,

01 34 13PM 9 Dr. Bunn says, right. Right. And while he's

01 34 17PM 10 encouraging people to seek help within his

01 34 18PM 11 organization and not outside the organization,

01 34 22PM 12 telling us not to talk to anybody. Don't talk to

01 34 23PM 13 anybody.

01 34 25PM 14 And then Willingham says, that's

01 34 26PM 15 concerning.

01 34 28PM 16 Bunn says, that's concerning to me. And

01 34 30PM 17 then that picks up with the part that the defense

01 34 34PM 18 read in this morning with Willingham saying, that's

01 34 35PM 19 very concerning.

01 34 38PM 20 Your Honor, that statement of he's

01 34 41PM 21 telling people, telling us, not to talk to anybody,

01 34 44PM 22 don't talk to anybody, provides the context for why

01 34 45PM 23 Dr. Bunn made that statement within three or four

01 34 49PM 24 lines below that of, but I don't know if anybody

01 34 52PM 25 else is talking, explaining why she believes she

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01 34 55PM 1 was the bullet in the gun.

01 34 56PM 2 For those two reasons, Your Honor, I'd

01 34 58PM 3 ask the Court to reconsider and allow us to, No. 1,

01 35 02PM 4 go into that subject of the conference call; and,

01 35 04PM 5 No. 2, allow the state under Rule 106 to lay the

01 35 10PM 6 context for the portion of the statement that the

01 35 13PM 7 defendant read into the record and asked the

01 35 16PM 8 witness about this morning.

01 35 49PM 9 THE COURT: Mr. Kelly, the two elements, one

01 35 54PM 10 being that just in terms of disclosure he disclosed

01 35 58PM 11 the physical statements, which, under the rules of

01 36 03PM 12 procedure, contemplates some kind of physical

01 36 05PM 13 statement. Of course, there are Brady concerns

01 36 07PM 14 also if someone knew that ahead of time. And that,

01 36 10PM 15 of course, would have to be disclosed perhaps.

01 36 13PM 16 Or -- if it's just -- whether Brady or

01 36 17PM 17 not, if it's a statement that someone is aware of,

01 36 22PM 18 the obligation to disclose it no matter what form

01 36 26PM 19 it's in.

01 36 27PM 20 But that's the first argument, that

01 36 31PM 21 it's -- there was no statement before. And the

01 36 37PM 22 argument heard yesterday is, in fact, there was

01 36 40PM 23 kind of a statement. It just didn't indicate who

01 36 43PM 24 might have been responsible for it. That's the one

01 36 43PM 25 argument.

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01 36 44PM 1 The other has to do with whether it's

01 36 46PM 2 necessary to present all of this, and the other

01 36 50PM 3 part of it, to have a fair presentation.

01 36 53PM 4 MR. KELLY: Judge, I have handed you

01 36 56PM 5 Exhibit 617. And the area of reference is on

01 37 02PM 6 page 40. What this jury has heard is the

01 37 10PM 7 information between line 16 and 19.

01 37 29PM 8 And if I may respond, Judge?

01 37 31PM 9 THE COURT: Yes.

01 37 32PM 10 MR. KELLY: First of all, in regards to the

01 37 34PM 11 disclosure violation, I remind the Court that

01 37 37PM 12 yesterday or last week the proffer was to admit

01 37 41PM 13 evidence regarding discussion and purported

01 37 45PM 14 statement that my client made during a conference

01 37 48PM 15 call occurring after the event.

01 37 52PM 16 We argued, and would submit today as

01 37 54PM 17 well, that if the State of Arizona has information

01 37 58PM 18 about the statements made by my client and intends

01 38 02PM 19 to use those statement at trial, then they're

01 38 05PM 20 required to disclose them under Brady/Kyle,

01 38 11PM 21 progeny, Rule 15.1. It's clear on its face. And

01 38 13PM 22 that was an argument, and I believe that objection

01 38 15PM 23 was sustained by the Court.

01 38 17PM 24 Now, I point your attention to Rule 6 --

01 38 21PM 25 or excuse me. Exhibit 617. There's no reference

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01 38 24PM 1 in here to this conference call. What we have is a

01 38 31PM 2 detective saying, I spoke to another individual who

01 38 35PM 3 had attended some seminars. And she, said -- you

01 38 38PM 4 know -- there's a lot of people still drinking this

01 38 41PM 5 Kool-Aid -- that was her phrase -- and I think you

01 38 43PM 6 know kind of on target there, people get followings

01 38 46PM 7 when they think they can cling onto this and it's

01 38 50PM 8 going to give them something. That's a statement

01 38 52PM 9 or question from the interviewing detective.

01 38 55PM 10 And the response from Dr. Bunn is, right.

01 38 57PM 11 Right. And, well, he's encouraging people to seek

01 39 00PM 12 help within his organization and not outside his

01 39 02PM 13 organization, telling us not to talk to anybody.

01 39 05PM 14 Don't talk to anybody.

01 39 07PM 15 Judge, there's no foundation, first of

01 39 10PM 16 all, to connect the person "he" to my client. We

01 39 14PM 17 don't know -- given the state's proffer last week,

01 39 18PM 18 the conference call that they refer to was attended

01 39 23PM 19 by numerous different people, some of whom may have

01 39 26PM 20 been employees of JRI.

01 39 28PM 21 But more importantly, if the government's

01 39 31PM 22 argument right now is to complete this statement,

01 39 34PM 23 they're talking about two separate things. Then

01 39 37PM 24 there's, that's concerning to me. And she

01 39 40PM 25 concludes with, that's concerning to me.

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01:38:43PM 1 And then she says, because I feel like  
 01:38:45PM 2 I'm the bullet in the gun.  
 01:38:47PM 3 And what is in evidence in this case is,  
 01:38:51PM 4 Judge, I asked her the question, do you believe  
 01:38:55PM 5 that you're the bullet in the gun to shoot down  
 01:38:59PM 6 Mr. Ray? There's an objection. I clarified. I  
 01:40:02PM 7 read the paragraph word for word, as Mr. Hughes has  
 01:40:05PM 8 just -- she admitted, yes. That was her statement  
 01:40:07PM 9 to Detective Willingham.  
 01:40:11PM 10 I then followed up with a statement made  
 01:40:14PM 11 on February 4th, 2010, to ABC News where she said,  
 01:40:18PM 12 I heard about his indictment, and I'm excited about  
 01:40:21PM 13 that, but I'm angry about it at the same time. And  
 01:40:24PM 14 I'm paraphrasing. But that was, essentially, the  
 01:40:28PM 15 testimony.  
 01:40:32PM 16 And so we do not concede that Rule 15  
 01:40:37PM 17 would not require disclosure. Stated differently,  
 01:40:40PM 18 if they knew about this statement purportedly made  
 01:40:42PM 19 by my client, then they're obligated to disclose it  
 01:40:45PM 20 to us. That's clear. The law has always been as  
 01:40:48PM 21 such. And it was not disclosed.  
 01:40:51PM 22 There was a discussion last Friday. We  
 01:40:55PM 23 had by no means by attempting to show the motive  
 01:40:58PM 24 and bias of this witness have opened that door.  
 01:41:00PM 25 That never was the limited focus for those  
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01:40:58PM 1 questions.  
 01:41:01PM 2 So I don't know under a rule of  
 01:41:05PM 3 completeness what Mr. Hughes wants to make more  
 01:41:09PM 4 complete. Because the next statement is the  
 01:41:11PM 5 detective statement, not the witness. Well, we've  
 01:41:15PM 6 got lists and lists and lists, and we've got people  
 01:41:18PM 7 emailing and calling us and saying I went to an  
 01:41:20PM 8 event over there, and I need to tell us this, and I  
 01:41:21PM 9 went to the same event last year. That's before  
 01:41:23PM 10 the event.  
 01:41:25PM 11 And I need to tell you this, so please  
 01:41:27PM 12 don't feel like you're out there by yourself. And  
 01:41:31PM 13 that would be the detective completing the  
 01:41:33PM 14 statement, not the witness.  
 01:41:37PM 15 MR. HUGHES: Your Honor, I would submit the  
 01:41:38PM 16 argument about the Rule 20. That's -- that's a  
 01:41:41PM 17 straw-man argument. I'm asking that the Court  
 01:41:43PM 18 admit the statement beginning at line 10, which is  
 01:41:48PM 19 the statement where she provides the context to,  
 01:41:51PM 20 don't talk to anybody, which explains her -- the  
 01:41:55PM 21 comment then at line 16 through line 19 that was  
 01:42:00PM 22 read into the record.  
 01:42:04PM 23 Rule 106 lets the opposing party have  
 01:42:08PM 24 fair context read in. And clearly line 10 through  
 01:42:08PM 25 line 12, and really line 10 through line 15, which  
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01:42:13PM 1 are the questions after that, provide the context  
 01:42:16PM 2 to Dr. Bunn's answer at line 16.  
 01:42:18PM 3 With respect to the argument, I would --  
 01:42:20PM 4 that the state did violate a discovery obligation,  
 01:42:23PM 5 I would submit nowhere in Rule 15.2 is the state  
 01:42:28PM 6 required to provide to the defense every bit of  
 01:42:32PM 7 information that a witness knows about what a  
 01:42:34PM 8 defendant said.  
 01:42:35PM 9 We're required to provide statements by  
 01:42:38PM 10 the defendant -- "statement" is a term of art  
 01:42:40PM 11 that's defined by Rule 15.4 -- and the witness's  
 01:42:45PM 12 knowledge or memory about what a defendant said.  
 01:42:47PM 13 Obviously there's a Brady obligation as  
 01:42:49PM 14 well if a statement was considered to be clearly  
 01:42:53PM 15 exculpatory. I don't think a defendant telling  
 01:42:56PM 16 people, don't talk to the police, is clearly  
 01:42:58PM 17 exculpatory. If anything, that's inculpatory  
 01:43:03PM 18 information.  
 01:43:03PM 19 The defendant can point to no rule that  
 01:43:06PM 20 the state has violated because we've not violated  
 01:43:10PM 21 any rule with respect to that. We've disclosed  
 01:43:12PM 22 fully and completely any recorded statement,  
 01:43:13PM 23 mechanical statement, that we intend to use at  
 01:43:16PM 24 trial.  
 01:43:16PM 25 But to say that we have to record -- or  
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01:43:17PM 1 disclose everything that a witness knows about the  
 01:43:20PM 2 defendant would -- would lead to an absurd result.  
 01:43:23PM 3 THE COURT: Mr. Kelly, you're not saying that?  
 01:43:26PM 4 MR. KELLY: No. I'm just saying the statement  
 01:43:27PM 5 of the defendant. If a proffered statement somehow  
 01:43:30PM 6 and there's a lack of foundation, but he's  
 01:43:32PM 7 encouraging people to seek help within his  
 01:43:35PM 8 organization. When I say there are foundational  
 01:43:38PM 9 issues, we don't know whether -- given the entire  
 01:43:41PM 10 discussion on this page, whether it's before or  
 01:43:43PM 11 after the event.  
 01:43:45PM 12 MR. HUGHES: And certainly foundation, Your  
 01:43:47PM 13 Honor -- that's something that I would always have  
 01:43:49PM 14 to lay before I can ask a witness about something.  
 01:43:52PM 15 The state would lay the foundation.  
 01:43:53PM 16 I think when the entire transcript is  
 01:43:55PM 17 read with the doctor talking about how she's very  
 01:43:58PM 18 concerned about this conference call at the very  
 01:44:00PM 19 beginning of the transcript, I think you can't look  
 01:44:03PM 20 at just a single page for context.  
 01:44:06PM 21 For the defendant to claim that they  
 01:44:08PM 22 don't know what she's talking about as far as the  
 01:44:11PM 23 conference call, I think is a myopic argument at  
 01:44:15PM 24 best.  
 01:44:15PM 25 With respect to a foundational objection  
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01 44 16PM 1 to an area of testimony that I haven't even been  
 01 44 20PM 2 allowed to get into, that's putting the cart before  
 01 44 22PM 3 the horse. Once I'm allowed to get into that area,  
 01 44 24PM 4 I'll lay the foundation as to when the call took  
 01 44 26PM 5 place and who was parties to the call.

01 44 31PM 6 MR. KELLY: Judge, you can't use a rule of  
 01 44 33PM 7 evidence to bypass disclosure obligations. My  
 01 44 38PM 8 client's due-process right is secured by the  
 01 44 41PM 9 federal and state Constitution.

01 44 44PM 10 And what offends me, Judge, is that now  
 01 44 46PM 11 the state, again, like the argument at sidebar, if  
 01 44 49PM 12 you recall, was -- well, last Friday we had her  
 01 44 53PM 13 listen to a clip so we could play the clip in  
 01 44 56PM 14 redirect. But I hadn't asked the question, which  
 01 45 00PM 15 they were going to rehabilitate, until Tuesday.

01 45 00PM 16 MR. HUGHES: And actually --

01 45 05PM 17 MR. KELLY: And that's -- that's impossible.  
 01 45 10PM 18 And this continuing course of -- and, Judge, with  
 01 45 13PM 19 all due respect, building error, reversible error,  
 01 45 16PM 20 into this case every step of the way, whether it's  
 01 45 19PM 21 attempting to rehabilitate a juror, clearly states  
 01 45 23PM 22 that they have -- they've already made a  
 01 45 25PM 23 determination of guilt -- to leaving photographs up  
 01 45 27PM 24 on an opening statement, et cetera, as we've  
 01 45 30PM 25 outlined.

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01 45 31PM 1 Now, to try to, on a clear disclosure  
 01 45 34PM 2 violation, if, if, if they knew about a conference  
 01 45 38PM 3 call where my client made statements purportedly  
 01 45 41PM 4 and they want to offer that statement in their case  
 01 45 45PM 5 in chief, that's a clear disclosure violation, and  
 01 45 48PM 6 there's been a pretrial order.

01 45 50PM 7 The door has not been opened. This  
 01 45 53PM 8 bullet-in-the-gun reference was simply to show this  
 01 45 56PM 9 witness's bias in her testimony.

01 46 00PM 10 MR. HUGHES: Your Honor, if I could correct  
 01 46 01PM 11 one misstatement. I didn't say at sidebar that we  
 01 46 04PM 12 had her listen to this clip in preparation for  
 01 46 08PM 13 redirect. I believe I had her listen to it over  
 01 46 12PM 14 the lunch break before I finished my direct  
 01 46 15PM 15 examination. And then we decided not to offer it  
 01 46 17PM 16 through that witness at that time and just moved on  
 01 46 19PM 17 as far as the yoga clip that was -- I'm not even  
 01 46 23PM 18 sure how the yoga clip pertains to the death or a  
 01 46 27PM 19 particular statement.

01 46 27PM 20 MR. KELLY: What it pertains to is just a  
 01 46 29PM 21 continuous violation of my client's due-process  
 01 46 34PM 22 rights. And it's cumulative. It begins to build  
 01 46 37PM 23 and affect our ability to represent our client and  
 01 46 39PM 24 Mr. Ray's ability to receive a fair trial in this  
 01 46 39PM 25 forum.

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01 46 40PM 1 MR. HUGHES: Your Honor, I'd ask --

01 46 41PM 2 THE COURT: Putting an exhibit into evidence  
 01 46 43PM 3 on redirect with proper foundation -- I don't see  
 01 46 46PM 4 an issue with that.

01 46 47PM 5 But with regard to this issue we're  
 01 46 51PM 6 dealing with here, 15.1, all statements of the  
 01 47 00PM 7 defendant and of any person who will be tried with  
 01 47 04PM 8 the defendant, this would tend to indicate that the  
 01 47 06PM 9 state thought this was, in fact, a statement of the  
 01 47 09PM 10 defendant.

01 47 10PM 11 MR. HUGHES: The state does believe that was  
 01 47 13PM 12 the statement of the defendant. But the statement  
 01 47 15PM 13 is used in 15.1 is a term of art that's limited by  
 01 47 18PM 14 Rule 15.4. It's specifically defined under  
 01 47 23PM 15 Rule 15.4.

01 47 24PM 16 THE COURT: Well, this would be a statement.  
 01 47 25PM 17 It's a recording. It's somebody who's -- it's a  
 01 47 28PM 18 recording of somebody who said something that  
 01 47 30PM 19 you're now saying is a statement but it's not  
 01 47 32PM 20 identified so that it would give notice that this  
 01 47 38PM 21 is a statement.

01 47 37PM 22 MR. HUGHES: Well, and it's been disclosed.  
 01 47 39PM 23 And we don't intend to offer the transcript into  
 01 47 41PM 24 evidence, Your Honor. It's the witness's knowledge  
 01 47 44PM 25 that we were asking to put into -- into evidence.

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01 47 47PM 1 What does the witness remember about that  
 01 47 49PM 2 conference call?

01 47 51PM 3 It's the witness's knowledge that we've  
 01 47 53PM 4 been precluded from asking her about. And a  
 01 47 55PM 5 witness's knowledge about what a defendant said is  
 01 47 57PM 6 very different than a defendant's statement.

01 48 00PM 7 THE COURT: I'm confirming the ruling. I find  
 01 48 04PM 8 it largely collateral in any event. And it's not  
 01 48 07PM 9 going to be allowed.

01 48 08PM 10 Is there anything else?

01 48 10PM 11 MS. POLK: Yes, Your Honor.

01 48 11PM 12 THE COURT: Ms. Polk.

01 48 12PM 13 MS. POLK: Your Honor, with respect to the  
 01 48 14PM 14 witness that the state will call when Dr. Bunn  
 01 48 17PM 15 comes off the stand, it'll be Stephen Ray. And the  
 01 48 21PM 16 state intends to offer through direct testimony  
 01 48 24PM 17 five to six audio clips. Two have been ruled upon  
 01 48 27PM 18 and admitted by the Court.

01 48 29PM 19 But there would be, depending on where  
 01 48 31PM 20 the conversation goes, three to four additional  
 01 48 34PM 21 ones that have already been provided to the  
 01 48 37PM 22 defense. It's the same discussion that we've been  
 01 48 39PM 23 having all along.

01 48 40PM 24 But I didn't -- we do -- I do intend to  
 01 48 43PM 25 offer them through the direct testimony. I've

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01 48 46PM 1 identified 22 clips yesterday morning to the  
01 48 48PM 2 defense. I just didn't want this to become a  
01 48 52PM 3 sidebar issue when that witness is testifying.

01 48 55PM 4 THE COURT: This is reducing the list from 107  
01 48 57PM 5 to 22 yesterday?

01 49 01PM 6 MS. POLK: Your Honor, I don't know that the  
01 49 02PM 7 list was ever a hundred or whatever. But I do know  
01 49 04PM 8 yesterday morning I sent an email to the defense  
01 49 07PM 9 identifying 22 additional clips that have not been  
01 49 12PM 10 admitted that the state intends to admit through  
01 49 14PM 11 the testimony of upcoming witnesses.

01 49 18PM 12 THE COURT: Are there transcripts readily  
01 49 18PM 13 available so the defense can examine the full  
01 49 21PM 14 contents? Do you have that?

01 49 22PM 15 MS. POLK: Your Honor, I believe that the  
01 49 24PM 16 defense has a full transcript of the entire audio.  
01 49 26PM 17 The state only has a transcript of the Thursday  
01 49 28PM 18 briefing. But in watching what's going on in the  
01 49 32PM 19 courtroom, it appears to me that the defense has a  
01 49 34PM 20 full transcript of all four days that were audio  
01 49 38PM 21 taped.

01 49 38PM 22 THE COURT: These clips are solely -- the  
01 49 42PM 23 foundation would be that it's Mr. Ray --

01 49 42PM 24 MS. POLK: Correct.

01 49 45PM 25 THE COURT: -- talking?

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01 49 45PM 1 MS. POLK: Correct.

01 49 48PM 2 THE COURT: No other issue? The confrontation  
01 49 51PM 3 issue and those things?

01 49 53PM 4 MS. POLK: Yes.

01 49 53PM 5 THE COURT: Who's going to address this?  
01 49 58PM 6 Ms. Do?

01 49 58PM 7 MS. DO: Thank you, Your Honor.

01 49 58PM 8 I understood from this morning that the  
01 49 58PM 9 state was only going to offer one clip, and that  
01 50 01PM 10 was with regards to James Shore. This is news to  
01 50 06PM 11 me that there are five to six clips. I would like  
01 50 08PM 12 the opportunity, once the state identifies those  
01 50 11PM 13 five or six, to review them for the various issues  
01 50 14PM 14 the state -- the Court has just indicated.

01 50 16PM 15 I don't know whether or not they are  
01 50 18PM 16 strictly Mr. Ray's statements or if it contains  
01 50 23PM 17 inadmissible hearsay. So I'll need that  
01 50 25PM 18 opportunity after the state tells the defense with  
01 50 28PM 19 more specificity which clips they intend to play.

01 50 33PM 20 THE COURT: We won't be able to deal with that  
01 50 37PM 21 until the break.

01 50 42PM 22 Ms. Polk, what was your anticipated  
01 50 42PM 23 timing with when you were going to be offering  
01 50 44PM 24 those?

01 50 54PM 25 MS. POLK: Your Honor, some of them will come  
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01 50 56PM 1 up pretty quickly. The clip with James Shore will  
01 51 00PM 2 come up pretty quickly. But, Your Honor, this is a  
01 51 03PM 3 recurring theme.

01 51 04PM 4 THE COURT: It is --

01 51 08PM 5 MS. POLK: The state has made disclosure. I  
01 51 07PM 6 disclosed yesterday morning about 8:30 a.m. 22  
01 51 10PM 7 clips which are short and put the defense on notice  
01 51 13PM 8 that those were the 22 clips that we'll be dealing  
01 51 15PM 9 with throughout the rest of the trial.

01 51 17PM 10 And yet it continues to be this recurring  
01 51 20PM 11 theme that they haven't had time to look at them or  
01 51 22PM 12 they -- they didn't know it was coming.

01 51 25PM 13 I put them on notice that they're coming.  
01 51 27PM 14 We put them on notice two weeks ago -- or two  
01 51 30PM 15 months ago we were going to use the audio.

01 51 32PM 16 And so here we are. All of these are  
01 51 35PM 17 clearly the defendant's words. There's no question  
01 51 37PM 18 the witnesses on the stand could testify about what  
01 51 40PM 19 the defendant said. The audios are the best  
01 51 42PM 20 evidence.

01 51 43PM 21 THE COURT: And you have a transcript, Ms. Do,  
01 51 46PM 22 of all of this?

01 51 47PM 23 MS. DO: We do, Your Honor. I'm holding an  
01 51 50PM 24 email -- a copy of the email we received from  
01 51 52PM 25 Ms. Polk yesterday at 8:54 a.m. in which she

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01 51 56PM 1 identified numerous clips that they wanted to play  
01 51 59PM 2 with no specification as to which witness is going  
01 52 02PM 3 to offer the foundation for these clips.

01 52 05PM 4 So it's difficult for the defense with  
01 52 08PM 5 this type of notice to put into context how these  
01 52 11PM 6 clips are going to be played and to understand how  
01 52 14PM 7 this witness is going to be able to offer the  
01 52 16PM 8 foundation.

01 52 17PM 9 You know, we began months before trial by  
01 52 21PM 10 asking the state which clips do you intend to play  
01 52 24PM 11 to avoid this very situation. And we received a  
01 52 27PM 12 response from the state that whatever becomes  
01 52 29PM 13 relevant as we get through trial.

01 52 31PM 14 Then we get a master CD that does contain  
01 52 34PM 15 107 audio clips, which Ms. Seifter and Mr. Li had  
01 52 38PM 16 to go through. And now we understand that that has  
01 52 40PM 17 been reduced down to 22.

01 52 42PM 18 But the problem we're encountering is the  
01 52 45PM 19 notice that we're receiving literally yesterday  
01 52 47PM 20 morning. We also got a list of about seven or  
01 52 51PM 21 eight witnesses for the week, no specification as  
01 52 54PM 22 to who's going to be offering the clips.

01 52 56PM 23 And so I am handling Mr. Ray for this  
01 52 59PM 24 afternoon -- Stephen Ray. But I don't know which  
01 53 02PM 25 clips are going to be played.

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01 53 03PM 1 THE COURT: Ms. Polk, as I indicated, two are  
01 53 06PM 2 already admitted. And you have maybe three more or  
01 53 09PM 3 something?

01 53 12PM 4 MS. POLK: Yes, Your Honor.

01 53 15PM 5 THE COURT: And have you -- have you indicated  
01 53 18PM 6 those specific three? And the reason I'm asking  
01 53 21PM 7 with the volume -- and I understand it's less now  
01 53 24PM 8 than it was last week. But there has to be some  
01 53 27PM 9 means of reviewing things. I don't -- I can't make  
01 53 30PM 10 a predetermination if there is some evidentiary  
01 53 33PM 11 concern after it's already played. It's too late  
01 53 36PM 12 now.

01 53 39PM 13 And then -- and to guess at 107 and have  
01 53 42PM 14 evidentiary hearings on 107 when there's only going  
01 53 45PM 15 to be 22 perhaps admitted, that's not an efficient  
01 53 48PM 16 way to do it either. So I'm trying to reach an  
01 53 51PM 17 accommodation here.

01 53 54PM 18 Can you disclose those and we can take  
01 53 57PM 19 ten minutes and look at them?

01 53 59PM 20 MS. POLK: I can, Your Honor. And the state  
01 54 02PM 21 has been trying to accommodate all along. I'll  
01 54 05PM 22 disclose what I plan at this time to play  
01 54 08PM 23 through -- through Stephen Ray.

01 54 11PM 24 But these audio clips are like  
01 54 14PM 25 photographs. There's no obligation to disclose to  
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01 54 05PM 1 the defense exactly what items that have been  
01 54 08PM 2 marked as exhibits we would use in questioning a  
01 54 11PM 3 witness.

01 54 14PM 4 I identified 22 clips yesterday that are  
01 54 17PM 5 very short. And the state intends to play these  
01 54 20PM 6 clips as they become relevant through any of the  
01 54 23PM 7 witnesses. I will certainly identify the few that  
01 54 26PM 8 I plan to play through Mr. Ray now.

01 54 29PM 9 But I specifically put the defense on  
01 54 32PM 10 notice yesterday morning that these clips would be  
01 54 35PM 11 used throughout the entire trial with respect to  
01 54 38PM 12 any of the witnesses. And I also put them on  
01 54 41PM 13 notice that additional clips, as identified in the  
01 54 44PM 14 master, if they become relevant, for example, on --  
01 54 47PM 15 after cross-examination on redirect, that we  
01 54 50PM 16 reserve the right to use those as well.

01 54 53PM 17 THE COURT: Unlike photographs, once something  
01 54 56PM 18 is played, it's played. With a photograph it's not  
01 54 59PM 19 displayed to the jury until the Court can make a  
01 55 02PM 20 necessary view and consider 403 issues or whatever  
01 55 05PM 21 it might be.

01 55 08PM 22 But the time to find out there might be a  
01 55 11PM 23 problem is not when the clip is played. That just  
01 55 14PM 24 puts everything at risk. So we are going to take  
01 55 17PM 25 ten minutes. And that'll give the attorneys an

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01 55 08PM 1 opportunity to see what clips are anticipated with  
01 55 11PM 2 the next witness after Dr. Bunn.

01 55 14PM 3 I would like to start about five after.

01 55 17PM 4 Thank you.

01 55 20PM 5 (Recess.)

01 55 23PM 6 (Proceedings continued in the presence of  
02 10 26PM 7 jury.)

02 10 29PM 8 THE COURT: The record will show the presence  
02 10 32PM 9 of the defendant, Mr. Ray the attorneys and the  
02 10 35PM 10 jury. Dr. Bunn has returned to the witness stand.

02 10 38PM 11 Mr. Hughes.

02 10 41PM 12 Q. BY MR. HUGHES: Good afternoon, Dr. Bunn.

02 10 44PM 13 A. Afternoon.

02 10 47PM 14 Q. I'm almost done, hopefully only a few  
02 10 50PM 15 more questions.

02 10 53PM 16 You were asked by Mr. Kelly a question or  
02 10 56PM 17 two about observing Lou, the fellow whose arm got  
02 11 00PM 18 burned. Do you remember that?

02 11 03PM 19 A. I do.

02 11 06PM 20 Q. Did you have an opportunity to inspect  
02 11 09PM 21 his arm?

02 11 12PM 22 A. No.

02 11 15PM 23 Q. Can you tell us how it is that you came  
02 11 18PM 24 to see his arm.

02 11 21PM 25 A. When I was -- as I was coming out of the  
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02 11 24PM 1 tent, one person grabbed me. Lou was standing  
02 11 27PM 2 right in front and he was holding up his arm. I  
02 11 30PM 3 just saw the white of his arm.

02 11 33PM 4 Q. How long of a look did you get at it?

02 11 36PM 5 A. Just a quick second.

02 11 39PM 6 Q. You were asked and indicated you couldn't  
02 11 42PM 7 answer a question about whether the inside row was  
02 11 45PM 8 hotter than the outside row. Can you explain why  
02 11 48PM 9 you couldn't answer that question.

02 11 51PM 10 A. I was never on the outside row. I was  
02 11 54PM 11 always on the inside.

02 11 57PM 12 Q. And were you on the inside row, then, in  
02 12 00PM 13 both of the locations you've described?

02 12 03PM 14 A. I was.

02 12 06PM 15 Q. You were asked about giving some  
02 12 09PM 16 interviews to the media. Do you remember that?

02 12 12PM 17 A. I do.

02 12 15PM 18 Q. Why is it that you gave interviews to the  
02 12 18PM 19 media in this case?

02 12 21PM 20 A. There is a number of reasons why I chose  
02 12 24PM 21 to do it. I had gone to Kirby's funeral. And I'd  
02 12 27PM 22 been contacted by several of the people. And I got  
02 12 30PM 23 frustrated because no one was speaking out. And  
02 12 33PM 24 Mr. Ray --

02 12 36PM 25 MR. KELLY: Your Honor, objection.

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02 12 42PM 1 THE COURT: Mr. Hughes, please ask another  
 02 12 44PM 2 question.  
 02 12 47PM 3 Q. BY MR. HUGHES: Mr. Kelly asked a  
 02 13 00PM 4 question along the lines you didn't help anybody in  
 02 13 02PM 5 the sweat lodge, did you? And you couldn't answer  
 02 13 05PM 6 that question with a yes or no. Can you explain  
 02 13 08PM 7 your answer to that.  
 02 13 13PM 8 A. I didn't notice anybody who was  
 02 13 15PM 9 unconscious or passed out. I was there in the  
 02 13 18PM 10 capacity of a participant not there as a doctor.  
 02 13 20PM 11 And I wasn't in control of the sweat lodge. I was  
 02 13 23PM 12 also trying to survive it myself.  
 02 13 26PM 13 Q. Were you at the ceremony to provide  
 02 13 28PM 14 medical care or dental care to anybody?  
 02 13 31PM 15 A. I was not.  
 02 13 33PM 16 Q. Had you even told anybody prior to the  
 02 13 35PM 17 ceremony that you were an orthodontist?  
 02 13 38PM 18 A. I had told Mr. Ray I was an orthodontist.  
 02 13 41PM 19 And I think by that time I had shared it with  
 02 13 43PM 20 Kirby.  
 02 13 45PM 21 Q. Had you told the general participants?  
 02 13 48PM 22 A. I had not.  
 02 13 51PM 23 Q. Would you have interrupted the ceremony  
 02 13 54PM 24 to voice concerns to Mr. Ray?  
 02 13 57PM 25 A. Hindsight is 20/20. But at the time I  
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02 14 06PM 1 didn't feel that I could do that.  
 02 14 08PM 2 Q. Can you tell us why at the time you  
 02 14 11PM 3 didn't feel like you could do that.  
 02 14 14PM 4 A. Mr. Ray is in charge of the sweat lodge.  
 02 14 17PM 5 Mr. Ray was in charge of all of the activity.  
 02 14 19PM 6 Mr. Ray is the expert, and that's who I was there  
 02 14 22PM 7 to learn from. I felt if anybody was in jeopardy,  
 02 14 25PM 8 he would be the one to actually take care of the  
 02 14 28PM 9 situation or acknowledge it or ask for some sort of  
 02 14 31PM 10 help or assistance.  
 02 14 34PM 11 MR. HUGHES: Thank you, Doctor.  
 02 14 37PM 12 THE COURT: Thank you, Mr. Hughes.  
 02 14 40PM 13 Mr. Kelly, did you want to recross in  
 02 14 43PM 14 that one limited area?  
 02 14 46PM 15 MR. KELLY: Thank you, Judge. No.  
 02 14 49PM 16 THE COURT: Ladies and gentlemen, any  
 02 14 52PM 17 questions for this witness?  
 02 14 55PM 18 It appears we have some jury questions.  
 02 14 58PM 19 Dr. Bunn, please stay there while I  
 02 15 01PM 20 consider the question.  
 02 15 04PM 21 Counsel, can I see you at the bench to  
 02 15 07PM 22 consider the question.  
 02 15 10PM 23 (Sidebar conference.)  
 02 15 13PM 24 THE COURT: Any objection, Mr. Hughes?  
 02 15 16PM 25 MR. HUGHES: No, Your Honor.  
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02 16 11PM 1 THE COURT: Mr. Kelly?  
 02 16 13PM 2 MR. KELLY: Not the way it's phrased. No,  
 02 16 15PM 3 Judge.  
 02 16 18PM 4 (End of sidebar conference.)  
 02 16 21PM 5 THE COURT: I will ask the question. The  
 02 16 24PM 6 attorneys may wish to follow up.  
 02 16 27PM 7 Dr. Bunn, is it true that you stated that  
 02 16 30PM 8 the fire tender said that these were the hottest  
 02 16 33PM 9 rocks ever and that he had done this several times  
 02 16 36PM 10 before?  
 02 16 39PM 11 THE WITNESS: Yes.  
 02 16 42PM 12 THE COURT: Any follow up?  
 02 16 45PM 13 MR. HUGHES: Thank you.  
 02 16 48PM 14 FURTHER REDIRECT EXAMINATION  
 02 16 51PM 15 BY MR. HUGHES:  
 02 16 54PM 16 Q. Doctor, do you recall when the fire  
 02 16 57PM 17 tender told you that?  
 02 17 00PM 18 A. When we were outside of the sweat lodge  
 02 17 03PM 19 before going into the sweat lodge where we had  
 02 17 06PM 20 gathered and we were about to burn our journals.  
 02 17 09PM 21 Q. Was Mr. Ray present when the fire tender  
 02 17 12PM 22 said this?  
 02 17 15PM 23 A. He was.  
 02 17 18PM 24 Q. Did Mr. Ray comment on that or respond  
 02 17 21PM 25 about this being the hottest one yet?  
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02 17 06PM 1 A. I don't recall.  
 02 17 09PM 2 Q. Thank you, Doctor.  
 02 17 12PM 3 THE COURT: Mr. Kelly?  
 02 17 15PM 4 RECROSS-EXAMINATION  
 02 17 18PM 5 BY MR. KELLY:  
 02 17 21PM 6 Q. Dr. Bunn, do you remember the fire  
 02 17 24PM 7 tender's name?  
 02 17 27PM 8 A. I do.  
 02 17 30PM 9 Q. Was it Ted Mercer?  
 02 17 33PM 10 A. That's what I recall.  
 02 17 36PM 11 Q. Thank you.  
 02 17 39PM 12 THE COURT: Thank you.  
 02 17 42PM 13 May Dr. Bunn be excused as a witness?  
 02 17 45PM 14 MR. HUGHES: Yes, Your Honor.  
 02 17 48PM 15 MR. KELLY: Yes.  
 02 17 51PM 16 THE COURT: Dr. Bunn, you are excused at a  
 02 17 54PM 17 witness. I've already explained the  
 02 17 57PM 18 exclusion-of-witness rule. You are excused at this  
 02 18 00PM 19 time.  
 02 18 03PM 20 THE WITNESS: Thank you.  
 02 18 06PM 21 THE COURT: Ms. Polk?  
 02 18 09PM 22 MS. POLK: Your Honor, the state calls Stephen  
 02 18 12PM 23 Ray, please.  
 02 18 15PM 24 MR. KELLY: Judge, can we approach very  
 02 18 18PM 25 briefly?  
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02 18 25PM 1 (Sidebar conference.)

02 18 25PM 2 MS. DO: Judge, with the 10 minutes that you

02 18 27PM 3 gave us earlier, I had a chance to review the

02 18 30PM 4 excerpts. There are objections under 106. We

02 18 33PM 5 didn't have the opportunity to deal with that with

02 18 36PM 6 the Court before the witness came in.

02 18 44PM 7 THE COURT: Well, what's admissible --

02 18 53PM 8 Ms. Polk, I'll have you address it before

02 18 56PM 9 I say anything.

02 18 58PM 10 MS. POLK: Your Honor, I would just suggest if

02 18 59PM 11 there is more information they believe should be

02 19 01PM 12 played on cross-examination, they could play an

02 19 03PM 13 expanded clip.

02 19 05PM 14 THE COURT: That's where I was going to go

02 19 06PM 15 with that too. The entire clip would be played at

02 19 10PM 16 that time. You have transcripts, though, do you

02 19 15PM 17 not? So it could actually be supplemented almost

02 19 18PM 18 immediately.

02 19 19PM 19 MS. DO: Yes. The transcript, Your Honor, is

02 19 22PM 20 not tied to the specific excerpts the state wants

02 19 25PM 21 to play. But in the interest of trying to move

02 19 27PM 22 this along, I will deal with it on this particular

02 19 29PM 23 witness.

02 19 31PM 24 But as Mr. Li has requested repeatedly,

02 19 34PM 25 we would like to try and figure out another way to

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02 19 37PM 1 do this because this is not workable. For this

02 19 40PM 2 witness I will accommodate and move forward.

02 19 43PM 3 THE COURT: I've encouraged the communication.

02 19 47PM 4 The entire -- on cross the entire excerpt can be

02 19 51PM 5 played to put it in context. That's how we'll do

02 19 55PM 6 it.

02 19 57PM 7 MS. DO: Instead of being played, it will be

02 19 59PM 8 read. We don't have the audios prepared just given

02 20 01PM 9 the time that we had.

02 20 03PM 10 THE COURT: That would be interesting. Who

02 20 05PM 11 would read it?

02 20 06PM 12 MS. DO: I guess I would have to question the

02 20 08PM 13 witness and read the rest. Unless Ms. Polk thinks

02 20 11PM 14 she's going to be on direct the rest of the day.

02 20 14PM 15 Then we can prepare it overnight.

02 20 17PM 16 MS. POLK: Which we might be. Your Honor,

02 20 19PM 17 also the state would request that any transcripts

02 20 22PM 18 that are used by the defense in this trial be

02 20 24PM 19 provided to the state. The defense has not

02 20 26PM 20 provided us with a transcript of the audio. And if

02 20 30PM 21 they're going to use it, I think the rules require

02 20 34PM 22 they give us a copy.

02 20 34PM 23 THE COURT: If it's going to be in evidence,

02 20 35PM 24 yes. Both sides need to provide that if it's going

02 20 39PM 25 to be offered.

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02 20 40PM 1 MS. DO: It's the state that intends to use

02 20 43PM 2 the audio clips. We're not offering them as

02 20 45PM 3 evidence. The state should really. I know they

02 20 47PM 4 have transcribed the Thursday session. So I don't

02 20 51PM 5 know if the defense has a burden to provide the

02 20 53PM 6 state with its work product.

02 20 55PM 7 THE COURT: I'm not saying that. If there is

02 20 57PM 8 something that comes in, then there ought to be a

02 21 00PM 9 transcript --

02 21 00PM 10 MS. DO: Correct.

02 21 01PM 11 THE COURT: -- provided to Ms. Polk.

02 21 04PM 12 MS. POLK: I agree with that. If they're

02 21 06PM 13 reading something and it is being used at trial,

02 21 08PM 14 the state should have a copy of it. Otherwise we

02 21 11PM 15 don't know what they're reading.

02 21 13PM 16 THE COURT: If it's going to be provided,

02 21 16PM 17 there has to be some check on accuracy. 613,

02 21 20PM 18 providing a statement. The other side gets a

02 21 23PM 19 chance to look at it then to make sure it's

02 21 25PM 20 accurate.

02 21 25PM 21 MS. DO: That's fine, Your Honor. We will

02 21 29PM 22 provide Ms. Polk with a transcript. Hopefully her

02 21 34PM 23 direct will take us through the day and we will

02 21 38PM 24 have the audios for cross. That's the best I can

02 21 38PM 25 do.

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02 21 38PM 1 THE COURT: It still would unlikely be

02 21 41PM 2 cross-examination continuing anyway. You would

02 21 44PM 3 have an opportunity.

02 21 45PM 4 MS. DO: All right.

02 21 47PM 5 MS. POLK: Your Honor, I'd ask any transcript

02 21 49PM 6 that counsel is reading from a copy be provided.

02 21 52PM 7 Mr. Kelly was reading Dr. Bunn her intentions, and

02 21 57PM 8 that was not provided. Same thing with Dennis

02 22 00PM 9 Mehravar. And those have never been provided. We

02 22 03PM 10 don't know if the reading is accurate or not.

02 22 05PM 11 THE COURT: That was not just strictly prior

02 22 08PM 12 inconsistent statement. That was actual evidence

02 22 11PM 13 going to potential bias and motive. But I still

02 22 14PM 14 think it's appropriate that the other side gets --

02 22 17PM 15 you have to have a chance to see what's being read

02 22 21PM 16 in court. You have to.

02 22 23PM 17 Mr. Kelly.

02 22 24PM 18 MR. KELLY: Judge, they have the actual

02 22 28PM 19 audiotape of information I read. Again, I'll try.

02 22 31PM 20 But the problem -- as an example, the intentions

02 22 36PM 21 are something we can provide. But for these other

02 22 39PM 22 issues, we don't really know until the direct. But

02 22 42PM 23 to the extent that that's possible, you bet we'll

02 22 45PM 24 give them a copy of that page if that speeds it up.

02 22 48PM 25 THE COURT: Thank you.

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02 22 49PM 1 MS. DO: Thank you.

02 23 07PM 2 (End of sidebar conference.)

02 23 07PM 3 THE COURT: Sir, please stand where the

02 23 07PM 4 bailiff is directing you here in the front

02 23 07PM 5 courtroom.

02 23 12PM 6 Raise your right hand be sworn by the

02 23 14PM 7 clerk.

02 23 14PM 8 STEPHEN RAY,

02 23 14PM 9 having been first duly sworn upon his oath to tell

02 23 14PM 10 the truth, the whole truth, and nothing but the

02 23 29PM 11 truth, testified as follows:

02 23 29PM 12 THE COURT: Please be seated here to my right.

02 23 51PM 13 Sir, would you please begin by stating

02 23 54PM 14 and spelling your full name.

02 23 55PM 15 THE WITNESS: Stephen, S-t-e-p-h-e-n, last

02 24 00PM 16 name Ray, R-a-y.

02 24 02PM 17 THE COURT: Thank you.

02 24 03PM 18 Ms. Polk, when you're ready.

02 24 05PM 19 MS. POLK: Thank you.

02 24 05PM 20 DIRECT EXAMINATION

02 24 05PM 21 BY MS. POLK:

02 24 06PM 22 Q. Good afternoon, sir.

02 24 07PM 23 Your name is Stephen Ray?

02 24 08PM 24 A. Yes.

02 24 09PM 25 Q. Are you any relation to the defendant,

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02 24 11PM 1 James Ray?

02 24 12PM 2 A. No.

02 24 13PM 3 Q. Will you tell the jury, sir, what

02 24 16PM 4 community you live in.

02 24 16PM 5 A. San Diego.

02 24 19PM 6 Q. And approximately how old are you?

02 24 21PM 7 A. 47.

02 24 23PM 8 Q. Would you tell the jury what level of

02 24 26PM 9 education you have.

02 24 27PM 10 A. Bachelor's degree.

02 24 28PM 11 Q. From where?

02 24 29PM 12 A. San Diego State University.

02 24 31PM 13 Q. And what did you get your bachelor's

02 24 34PM 14 degree in?

02 24 34PM 15 A. Industrial organizational psychology.

02 24 38PM 16 Q. Are you currently employed?

02 24 39PM 17 A. No.

02 24 41PM 18 Q. Do you know Mr. James Ray?

02 24 44PM 19 A. Only from doing the events, the seminars.

02 24 47PM 20 Q. How did you come to learn of the

02 24 49PM 21 defendant?

02 24 53PM 22 A. I had some friends that were going --

02 24 53PM 23 invited me to one of the free events that he was

02 24 58PM 24 putting on. So we took a group of friends and went

02 24 59PM 25 to that free event.

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02 25 00PM 1 Q. Do you recall when that was?

02 25 02PM 2 A. I don't recall the exact date.

02 25 06PM 3 Approximately two and a half to three years ago.

02 25 10PM 4 Q. Was it in the San Diego area?

02 25 13PM 5 A. Yes.

02 25 13PM 6 Q. Did you then attend additional events?

02 25 16PM 7 A. Yes.

02 25 16PM 8 Q. Tell the jury what additional seminars

02 25 20PM 9 put on by the defendant you attended.

02 25 22PM 10 A. I attended Harmonic Wealth, Creating

02 25 27PM 11 Absolute Wealth, Practical Mysticism, Modern

02 25 34PM 12 Magick, and the Spiritual Warrior. I think that's

02 25 38PM 13 all of them. There's five or six.

02 25 41PM 14 Q. Over what period of time did you attend

02 25 43PM 15 those various seminars?

02 25 45PM 16 A. Approximately two to two and a half

02 25 46PM 17 years.

02 25 47PM 18 Q. Did you ever serve as a Dream Team

02 25 51PM 19 member?

02 25 51PM 20 A. Yes, I did.

02 25 52PM 21 Q. And when was that?

02 25 53PM 22 A. Over the course of that period, from the

02 25 55PM 23 time that I did the first Harmonic Wealth. So the

02 26 04PM 24 way it was set up, you could be a Dream Team member

02 26 07PM 25 after you attended the event. So after I attended

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02 26 10PM 1 the Harmonic Wealth, some period of time after

02 26 13PM 2 that, then I was a Dream Team member.

02 26 15PM 3 Q. Just for the one Harmonic Wealth event?

02 26 19PM 4 A. No. I did several Harmonic Wealth

02 26 22PM 5 events. I also did Creating Absolute Wealth event.

02 26 25PM 6 I'm not sure. I might have done the Creating

02 26 28PM 7 Absolute Wealth more than once.

02 26 31PM 8 Q. Did you have to apply to become a Dream

02 26 34PM 9 Team member for those events?

02 26 38PM 10 A. Yes.

02 26 38PM 11 Q. Do you know how many times you were a

02 26 40PM 12 Dream Team member?

02 26 41PM 13 A. I can't recall a specific number. It was

02 26 44PM 14 several times, several times for Harmonic Wealth

02 26 47PM 15 and at least twice that I can recall for Creating

02 26 52PM 16 Absolute Wealth.

02 26 54PM 17 Q. Did you attend Spiritual Warrior 2009 in

02 26 57PM 18 Sedona, Arizona?

02 26 58PM 19 A. Yes.

02 26 59PM 20 Q. When was it that you signed up for the

02 27 01PM 21 Spiritual Warrior seminar?

02 27 03PM 22 A. I signed up for the Spiritual Warrior

02 27 06PM 23 seminar as a package with several other events. As

02 27 11PM 24 I recall, I went to the free event and signed up

02 27 15PM 25 for -- for the first event, which was the -- it

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02 27 27PM 1 would have been at the Harmonic Wealth event that I  
02 27 31PM 2 signed up for the package, which included several  
02 27 34PM 3 other events including the Spiritual Warrior.

02 27 37PM 4 Q. Do you recall how much you paid for the  
02 27 40PM 5 Spiritual Warrior event?

02 27 43PM 6 A. Well, it was part of a package. I don't  
02 27 46PM 7 recall if there was a breakdown on the sheet for  
02 27 48PM 8 that, but it was included in that particular  
02 27 51PM 9 package.

02 27 54PM 10 Q. How much was the entire package?

02 27 57PM 11 A. It was approximately \$14,000.

02 27 59PM 12 Q. Were you originally signed up to attend  
02 28 02PM 13 Spiritual Warrior in 2008?

02 28 05PM 14 A. That is correct. So the package that I  
02 28 08PM 15 purchased included the 2008 Spiritual Warrior  
02 28 11PM 16 event.

02 28 14PM 17 Q. What happened that you did not attend  
02 28 17PM 18 in 2008?

02 28 20PM 19 A. I had a schedule conflict; so I could not  
02 28 23PM 20 attend.

02 28 26PM 21 Q. What did you do then?

02 28 29PM 22 A. I called the office and asked if I could  
02 28 32PM 23 move my attendance date to the following year. And  
02 28 35PM 24 they said yes, and there was a charge. I can't  
02 28 38PM 25 recall exactly how much it was. It was four or

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02 28 41PM 1 \$500, I think, as like a change fee. And that  
02 28 44PM 2 allowed me to go to the following year's event.

02 28 47PM 3 Q. A change fee to move it from 2008  
02 28 50PM 4 to 2009?

02 28 53PM 5 A. Correct.

02 28 56PM 6 Q. Did you also pay additional money to  
02 28 59PM 7 Angel Valley in 2009 to attend the seminar?

02 29 02PM 8 A. Yes. There was an event fee. I don't  
02 29 05PM 9 know the exact specific amount. It seemed like it  
02 29 08PM 10 was sixteen or \$1,800.

02 29 11PM 11 Q. And do you recall when you arrived at the  
02 29 14PM 12 Angel Valley Retreat Center in 2009?

02 29 17PM 13 A. I arrived late on the day. I think it  
02 29 20PM 14 was the 3rd. So I had -- I hit a bunch of traffic,  
02 29 23PM 15 and so I arrived approximately -- maybe 5:30. I  
02 29 26PM 16 don't know the exact time.

02 29 29PM 17 Q. You drove over?

02 29 32PM 18 A. Yes.

02 29 35PM 19 Q. What was going on when you arrived at  
02 29 38PM 20 Angel Valley in terms of the event itself?

02 29 41PM 21 A. Well, there was -- when I arrived, there  
02 29 44PM 22 was a tent that was set up as the area where, I  
02 29 47PM 23 guess, it was, for lack of a better term, the  
02 29 50PM 24 intake area. There was only myself and one other  
02 29 53PM 25 participant that was also late that was there.

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02 29 43PM 1 And so we rushed through there to get up  
02 29 46PM 2 to -- as I recall, people had already started to  
02 29 49PM 3 eat.

02 29 52PM 4 Q. Do you recall who the other participant  
02 29 55PM 5 was that you were going through that area with?

02 29 58PM 6 A. I'm not sure. It was a gentleman. It  
02 30 01PM 7 may have been Mr. Shore. But I do not know for  
02 30 04PM 8 sure because it was so quick. They just hurried us  
02 30 07PM 9 through it; so I don't recall if it was him or not.

02 30 10PM 10 Q. What specifically were you hurried  
02 30 13PM 11 through?

02 30 16PM 12 A. The intake process. There was a process  
02 30 19PM 13 where you signed some forms and they gave you -- I  
02 30 22PM 14 think it was a backpack. And then -- it was that  
02 30 25PM 15 process, the intake process.

02 30 28PM 16 Q. What forms did you sign? Do you recall?

02 30 31PM 17 A. Probably some -- I think there was some  
02 30 34PM 18 release forms. They said you need to sign these  
02 30 37PM 19 release forms and we need to get up to the place  
02 30 40PM 20 where they're eating.

02 30 43PM 21 Q. Did you take the time to read the release  
02 30 46PM 22 forms?

02 30 49PM 23 A. No.

02 30 52PM 24 Q. Was any medical information taken from  
02 30 55PM 25 you?

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02 30 58PM 1 A. Not that I can recall.

02 31 01PM 2 Q. And was a physical exam required of you  
02 31 04PM 3 to participate in the seminar?

02 31 07PM 4 A. No.

02 31 10PM 5 Q. Describe for the jury what the backpack  
02 31 13PM 6 looked like.

02 31 16PM 7 A. It was black and it had a logo on the  
02 31 19PM 8 front of it. I don't know how to describe the  
02 31 22PM 9 logo. It was just kind of a circle. It seemed  
02 31 25PM 10 like it was divided into quadrants.

02 31 28PM 11 Q. And what was in that backpack?

02 31 31PM 12 A. There was some written material. I think  
02 31 34PM 13 it was -- I don't know exactly, that part's a  
02 31 37PM 14 little foggy. It seemed like there was some  
02 31 40PM 15 written material, a package of -- I think it was  
02 31 43PM 16 sea salt, a spoon, and I'm not sure what else.

02 31 46PM 17 Q. Was there a water bottle?

02 31 49PM 18 A. Yes. There was an empty water bottle.

02 31 52PM 19 MS. POLK: Your Honor, may I approach the  
02 31 55PM 20 witness?

02 31 58PM 21 THE COURT: Yes.

02 32 01PM 22 Q. BY MS. POLK: I'm going to show you  
02 32 04PM 23 what's been marked as Exhibit 761. Take a moment  
02 32 07PM 24 to look at that and let me know if you recognize  
02 32 10PM 25 that.

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02 32 26PM 1 **A. Yes. It looks like part of the written**  
02 32 28PM 2 **material that was in the backpack.**

02 32 31PM 3 MS. POLK: Your Honor, I move for the  
02 32 33PM 4 admission of Exhibit 761.

02 32 35PM 5 THE COURT: Ms. Do?

02 32 36PM 6 MS. DO: No objections, Your Honor.

02 32 37PM 7 THE COURT: 761 is admitted.

02 32 41PM 8 (Exhibit 761 admitted.)

02 33 01PM 9 **Q. BY MS. POLK: I'm going to put up on the**  
02 33 03PM 10 **overhead Exhibit 761. Let's see if we can zoom in**  
02 33 09PM 11 **and read this. Sir, I'm going to point to where**  
02 33 24PM 12 **I'm going to start reading.**

02 33 27PM 13 It says, while we celebrate the path.

02 33 29PM 14 Can you read that?

02 33 31PM 15 **A. Read that paragraph starting with while**  
02 33 34PM 16 **we celebrate the path.**

02 33 37PM 17 **Q. Let me ask a better question. Can you**  
02 33 39PM 18 **see that?**

02 33 40PM 19 **A. Yes.**

02 33 40PM 20 **Q. Okay. And then the second sentence says,**  
02 33 42PM 21 **as you may imagine, Spiritual Warrior will push you**  
02 33 46PM 22 **beyond your perceived limits. Do you see that?**

02 33 48PM 23 **A. Yes.**

02 33 49PM 24 **Q. Did you understand what that meant?**

02 33 50PM 25 **A. Yes.**

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02 33 53PM 1 **Q. What did that mean to you?**

02 33 54PM 2 **A. To me it meant I was going to be**  
02 33 56PM 3 **challenged physically, mentally. In many different**  
02 34 02PM 4 **areas I was going to be challenged.**

02 34 06PM 5 **Q. And if we can keep reading a little bit,**  
02 34 08PM 6 **it says here, as we've previously discussed, it's**  
02 34 13PM 7 **well known in esoteric thought that you must**  
02 34 15PM 8 **release a minimum of 51 percent of your black bags,**  
02 34 19PM 9 **unresolved emotional issues, before true magic and**  
02 34 23PM 10 **power becomes commonplace in your life.**

02 34 26PM 11 Is that something you've heard Mr. Ray  
02 34 28PM 12 say?

02 34 28PM 13 **A. I've heard him speak of the black bags**  
02 34 31PM 14 **before.**

02 34 32PM 15 **Q. And what does that mean to you?**

02 34 33PM 16 **A. It means to me issues that I may have in**  
02 34 39PM 17 **my life that are unresolved issues that may keep me**  
02 34 44PM 18 **from being more successful in areas of my life.**

02 34 50PM 19 **Q. And where it says, it's well known in**  
02 34 54PM 20 **esoteric thought that you must release a minimum of**  
02 34 57PM 21 **50 percent of your black bag, what does that mean?**

02 35 03PM 22 **A. I'm not really clear on what exactly that**  
02 35 03PM 23 **means. It's just, to me it's just kind of -- I**  
02 35 08PM 24 **can't really wrap my mind around what 51 percent of**  
02 35 13PM 25 **that is.**

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02 35 14PM 1 **Q. Okay. When you signed up for the**  
02 35 16PM 2 **Spiritual Warrior 2009 event or at any time before**  
02 35 19PM 3 **arriving at Angel Valley in October of 2009, did**  
02 35 23PM 4 **you know what the events of the week would be?**

02 35 26PM 5 **A. No.**

02 35 27PM 6 **Q. Did you know there was going to be a**  
02 35 29PM 7 **sweat lodge?**

02 35 29PM 8 **A. No.**

02 35 29PM 9 **Q. And looking further down to paragraph --**  
02 35 36PM 10 **now we're at the sixth paragraph. And I'm just**  
02 35 42PM 11 **going to read the second sentence. It says, as**  
02 35 44PM 12 **we've discussed before, a true warrior doesn't go**  
02 35 48PM 13 **to battle knowing exactly what will transpire.**

02 35 53PM 14 Had that been discussed with you before  
02 35 55PM 15 by Mr. Ray?

02 35 56PM 16 **A. Well, in my experience of going to the**  
02 35 59PM 17 **events, you really don't know what's going to**  
02 36 01PM 18 **happen. And so it's -- stuff really tends to be a**  
02 36 06PM 19 **surprise. And many stuff that has happened at many**  
02 36 15PM 20 **of the events has been a surprise.**

02 36 16PM 21 **Q. And then the very next sentence says, a**  
02 36 18PM 22 **true warrior goes to battle with heart,**  
02 36 21PM 23 **determination, and courage, willing to do whatever**  
02 36 23PM 24 **it takes to defeat his own demons and dragons.**

02 36 27PM 25 Did you consider yourself to be a true  
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02 36 29PM 1 warrior within the context of this sentence?

02 36 33PM 2 **A. I was going there to be a warrior and**  
02 36 36PM 3 **fight for -- you know -- being more successful in**  
02 36 40PM 4 **my life.**

02 36 41PM 5 **Q. And the line about willing to do whatever**  
02 36 43PM 6 **it takes, did that apply to you?**

02 36 45PM 7 **A. Absolutely.**

02 36 48PM 8 **Q. And then the next sentence down at the**  
02 36 50PM 9 **bottom says, prepare yourself to dance like never**  
02 36 53PM 10 **before, my warrior friend. I warn you in advance**  
02 36 56PM 11 **that your small-ego identity may not want to**  
02 37 00PM 12 **participate and complete the tasks ahead of you.**

02 37 05PM 13 Did you understand that sentence?

02 37 06PM 14 **A. Yes.**

02 37 08PM 15 **Q. And what did that mean?**

02 37 10PM 16 **A. To me it meant, again, coming back to --**  
02 37 16PM 17 **I was going to be challenged in many different**  
02 37 19PM 18 **ways. And there might be some things that -- what**  
02 37 25PM 19 **I might want to quit, and that's something that I**  
02 37 30PM 20 **would have to face.**

02 37 32PM 21 **Q. And then it goes on to say, many talk but**  
02 37 47PM 22 **time for talk is over. Decide right now that you**  
02 37 50PM 23 **won't leave from the sacred place the same person**  
02 37 53PM 24 **who entered.**

02 37 53PM 25 Does that describe your attitude as you  
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02:37:57PM 1 began Spiritual Warrior 2009?

02:37:59PM 2 MS. DO: Your Honor, objection to the leading

02:38:01PM 3 question.

02:38:03PM 4 THE COURT: Sustained.

02:38:05PM 5 Q. BY MS. POLK: Does that sentence apply to

02:38:06PM 6 you or did it apply to you?

02:38:08PM 7 A. Yes. All of the events I -- the mind-set

02:38:10PM 8 that I went to -- that I was going to -- I was

02:38:12PM 9 going there to improve my life and be more

02:38:14PM 10 successful.

02:38:16PM 11 Q. Do you see the next words, be courageous?

02:38:18PM 12 A. Yes.

02:38:20PM 13 Q. Can you read that paragraph.

02:38:22PM 14 A. Be courageous. I believe in you and know

02:38:24PM 15 that you're chosen and ready. And my certainty far

02:38:26PM 16 exceeds any doubt that you may have. You may

02:38:28PM 17 never -- been presented with a test that you are

02:38:30PM 18 unable to handle, nor ever will you be.

02:38:32PM 19 Q. It says, you've never been presented with

02:38:34PM 20 a test you are unable to handle, nor ever will you

02:38:36PM 21 be. Do you know who the "I" is when it says I

02:38:38PM 22 believe in you?

02:38:40PM 23 MS. DO: Objection. Calls for speculation.

02:38:42PM 24 THE COURT: That would be a yes or no, if you

02:38:44PM 25 can answer in that fashion, Mr. Ray.

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02:39:04PM 1 THE WITNESS: Yes.

02:39:06PM 2 Q. BY MS. POLK: And who is it?

02:39:08PM 3 A. Mr. Ray.

02:39:10PM 4 Q. And, in fact, is that the person who

02:39:12PM 5 signed the letter?

02:39:14PM 6 A. Yes.

02:39:16PM 7 Q. I want to ask you about that sentence.

02:39:18PM 8 It says, be courageous. I believe in you and know

02:39:20PM 9 that you're chosen and ready, and my certainty far

02:39:22PM 10 exceeds any doubt you may have.

02:39:24PM 11 Had you heard Mr. Ray say that to you

02:39:26PM 12 before at a different event?

02:39:28PM 13 A. Yes.

02:39:30PM 14 Q. And in what context?

02:39:32PM 15 A. In the context that in many cases he

02:39:34PM 16 believed in us more than we believed in ourselves.

02:39:36PM 17 Q. What did that mean to you that Mr. Ray

02:39:38PM 18 would believe in you more than you believe in

02:39:40PM 19 yourself?

02:39:42PM 20 A. To me it meant that in my life I may have

02:39:44PM 21 issues that come up that I'm not courageous enough

02:39:46PM 22 to face, and that with his help and the help of

02:39:48PM 23 others there, I could work through whatever those

02:39:50PM 24 things were and be more successful in my life.

02:39:52PM 25 Q. And I'm going to go down to the fourth

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02:40:16PM 1 paragraph. It says starting there, commit right

02:40:18PM 2 now to stretch and move your body frequently.

02:40:20PM 3 Memories and emotions are stored at the cellular

02:40:22PM 4 level. As they're released, they must be moved

02:40:24PM 5 through and out of your system. This is not

02:40:26PM 6 optional. Your transformation depends on it.

02:40:28PM 7 What did that mean to you?

02:40:30PM 8 MS. DO: Objection. Calls for speculation,

02:40:32PM 9 Your Honor.

02:40:34PM 10 THE COURT: Overruled.

02:40:36PM 11 You may answer that, if you can.

02:40:38PM 12 THE WITNESS: To me it meant many things. One

02:40:40PM 13 of the things that we did in the mornings was have

02:40:42PM 14 an opportunity to practice yoga and stretch.

02:40:44PM 15 And to me it also included how we ate,

02:40:46PM 16 the things that we drank, and the stuff -- negative

02:40:48PM 17 energy would be stored up in our body. It gave us

02:40:50PM 18 a chance to release those things from ourselves.

02:40:52PM 19 Q. BY MS. POLK: And, again, as you're

02:40:54PM 20 understanding, that comes from prior events you had

02:40:56PM 21 done with Mr. Ray?

02:40:58PM 22 A. Yes. Many of the events we started the

02:41:00PM 23 day with a ritual of doing yoga first thing in the

02:41:02PM 24 morning and also being encouraged about eating

02:41:04PM 25 healthy, not taking bad things into our bodies.

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02:41:35PM 1 Q. Looking at this third paragraph from the

02:41:37PM 2 bottom, it says, Spiritual Warrior will open a

02:41:39PM 3 portal for you, a portal of personal power and

02:41:41PM 4 consciousness.

02:41:43PM 5 Was that your expectation?

02:41:45PM 6 A. Yes.

02:41:47PM 7 Q. And in what way what does that mean to

02:41:49PM 8 you?

02:41:51PM 9 A. To me it meant getting back to -- you

02:41:53PM 10 know -- the core, the core I have as a man, the

02:41:55PM 11 power that I have to accomplish what ever that I

02:41:57PM 12 want to accomplish in my life.

02:41:59PM 13 Q. And the next sentence says, prepare to

02:42:01PM 14 plug in at 220 watts, my warrior friend. New

02:42:03PM 15 neurological connections will be created bringing

02:42:05PM 16 with them all the opportunities and adventures of a

02:42:07PM 17 full-on spiritual and practical experience. You're

02:42:09PM 18 on a fast track. Buckle your seatbelts, Dorothy,

02:42:11PM 19 because Kansas is going bye-bye. Life will never

02:42:13PM 20 be the same.

02:42:15PM 21 What did that mean to you?

02:42:17PM 22 A. Well, to me it meant that I was going to

02:42:19PM 23 have a chance to move outside of the way I normally

02:42:21PM 24 think, feel, and act. And that I rather -- being

02:42:23PM 25 caught in -- for lack of a better word -- I put it

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02 42 52PM 1 a rut or a certain mind-set that I had been in, I  
02 42 55PM 2 was going to have the opportunity to really expand  
02 43 01PM 3 into new areas of consciousness in -- you know --  
02 43 03PM 4 both physically and mentally.

02 43 03PM 5 Q. Mr. Ray, by attending the Spiritual  
02 43 10PM 6 Warrior 2009 event, would that have been the  
02 43 12PM 7 completion of your attendance at all of Mr. Ray's  
02 43 17PM 8 events?

02 43 18PM 9 A. That was the last one that I had signed  
02 43 20PM 10 up for. There was also an event in the past that  
02 43 23PM 11 he had offered to select participants. I think it  
02 43 27PM 12 was called the "Quickening." I'm not sure exactly,  
02 43 28PM 13 but I think it was called the "Quickening." That  
02 43 32PM 14 was the only other event -- let me backtrack. That  
02 43 37PM 15 was the end of the events that I had signed up for.  
02 43 41PM 16 There were additional events called  
02 43 43PM 17 "Modern Magick" events that there was -- I had gone  
02 43 47PM 18 to one of those. And there was a progression of  
02 43 49PM 19 those, I think, through -- I think there was four  
02 43 54PM 20 or five of those events that people could also sign  
02 43 58PM 21 up for. But those -- I had not signed up for  
02 44 01PM 22 those. Those of what I had signed up, that was the  
02 44 03PM 23 last -- Spiritual Warrior was the last event.

02 44 08PM 24 Q. Let's talk about the theme for the week.  
02 44 11PM 25 Were you aware of a theme or had Mr. Ray told you  
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02 44 14PM 1 of a theme for the week for Spiritual Warrior?

02 44 17PM 2 A. I don't recall hearing of a theme to the  
02 44 22PM 3 event. What I recall is that it was -- that we  
02 44 28PM 4 were going to have more intimate access to him and  
02 44 33PM 5 his staff than at normal events, because the events  
02 44 37PM 6 were larger in size.

02 44 39PM 7 This was going to be a very limited  
02 44 41PM 8 number of participants. So from what I can recall,  
02 44 44PM 9 it was more about having more access to him  
02 44 48PM 10 personally.

02 44 50PM 11 Q. You've already told the jury you didn't  
02 44 52PM 12 know about any of the events that you would be  
02 44 54PM 13 participating in?

02 44 55PM 14 A. No.

02 44 58PM 15 Q. What was your attitude in terms of the  
02 45 00PM 16 level of your participation going into Spiritual  
02 45 01PM 17 Warrior 2009?

02 45 01PM 18 A. I'm not sure what you mean.

02 45 05PM 19 Q. What was your expectation of yourself in  
02 45 10PM 20 terms of your participation in whatever was going  
02 45 12PM 21 to come your way that week?

02 45 16PM 22 A. I thought it was going to be a great  
02 45 19PM 23 event to have access, to be able to ask James  
02 45 25PM 24 questions, to really push myself to -- a lot of the  
02 45 25PM 25 other events, I was -- I really got a lot out of

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02 45 31PM 1 the other events. And I was really, really excited  
02 45 34PM 2 to push myself to the limits and find breakthroughs  
02 45 38PM 3 so I could be more successful.

02 46 10PM 4 Q. Sir, I'm going to show you what's marked  
02 46 12PM 5 Exhibit 757, which is an audio CD. Prior to coming  
02 46 17PM 6 into this courtroom and taking the stand, did you  
02 46 19PM 7 have a chance to listen to that audio?

02 46 21PM 8 A. It looks like a CD that one of the  
02 46 26PM 9 assistants played for me. I don't know -- because  
02 46 31PM 10 I didn't memorize the number on the front. I don't  
02 46 34PM 11 know if this is one of the ones that I actually  
02 46 35PM 12 listened to or if it's just the same design on the  
02 46 38PM 13 cover.

02 46 39PM 14 Q. With respect to all of the CDs you  
02 46 42PM 15 listened to, do you recognize all of them?

02 46 44PM 16 A. In what sense?

02 46 45PM 17 Q. Well, with respect to any audio that had  
02 46 48PM 18 Mr. Ray, for example, speaking on it. Did you  
02 46 51PM 19 recognize it to be Mr. James Ray?

02 46 52PM 20 A. Yes. There was one that I recognized not  
02 46 57PM 21 to be him. It was another man. He identified  
02 46 58PM 22 himself at the beginning of the recording as James  
02 46 59PM 23 Shore.

02 47 03PM 24 Q. And we'll talk about that one separately.  
02 47 06PM 25 But I want to direct your attention first to Sunday  
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02 47 11PM 1 evening. Do you recall a gathering of all the  
02 47 14PM 2 participants with Mr. Ray giving you a lecture?

02 47 17PM 3 A. We each day had lecture. The order of  
02 47 26PM 4 some of the events I'm not quite sure about. So I  
02 47 32PM 5 can't really answer that positively, exactly  
02 47 37PM 6 what -- if there was a lecture on Sunday or not.

02 47 41PM 7 Q. Okay. And do you recall -- whenever that  
02 47 44PM 8 lecture was, do you recall a lecture where Mr. Ray  
02 47 47PM 9 talked to you about taking risks?

02 47 49PM 10 MS. DO: Objection. Leading, Your Honor.

02 47 51PM 11 THE COURT: Overruled.

02 47 51PM 12 You may answer that.

02 47 54PM 13 THE WITNESS: Yes. Most of the lectures that  
02 47 56PM 14 we had talked about taking risks and stretching  
02 48 00PM 15 ourselves and we're going to have an opportunity to  
02 48 03PM 16 grow. So yes.

02 48 05PM 17 Q. BY MS. POLK: And it's your testimony  
02 48 08PM 18 with respect to the audio CDs, that other than the  
02 48 09PM 19 one with a different male voice, that you  
02 48 11PM 20 recognized the voice of Mr. James Ray on the CDs?

02 48 15PM 21 A. Yes.

02 48 16PM 22 MS. POLK: Your Honor, I move for the  
02 48 17PM 23 admission of Exhibit 757.

02 48 20PM 24 MS. DO: Your Honor, I have to object. I  
02 48 22PM 25 think it's insufficient foundation.

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02 48 24PM 1 THE COURT: Sustained.

02 48 28PM 2 Q. BY MS. POLK: Let me hand you 757 again,

02 48 30PM 3 Mr. Ray, and ask you if that appears to be one of

02 48 33PM 4 the CDs that you listened to before taking the

02 48 36PM 5 stand here?

02 48 38PM 6 A. Yes.

02 48 38PM 7 Q. And with respect to the -- not talking

02 48 42PM 8 about the CD with the voice of a different male on

02 48 44PM 9 it, you recognized the various CDs that you

02 48 48PM 10 listened to before taking the stand?

02 48 50PM 11 A. Yes.

02 48 50PM 12 Q. And did you recall Mr. Ray having said

02 48 58PM 13 the various things that were said on the CDs?

02 48 58PM 14 A. Yes.

02 48 59PM 15 Q. And specifically do you recall Mr. Ray

02 49 01PM 16 talking to you during one of the lectures of

02 49 05PM 17 Spiritual Warrior 2009 about taking risks?

02 49 08PM 18 A. Yes.

02 49 09PM 19 MS. POLK: Your Honor, I move for the

02 49 10PM 20 admission of 757.

02 49 12PM 21 MS. DO: Your Honor, I think the foundation is

02 49 14PM 22 still lacking. However, to move things along, I

02 49 16PM 23 withdraw the objection.

02 49 17PM 24 THE COURT: Exhibit is admitted 757.

02 49 20PM 25 (Exhibit 757 admitted.)  
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02 49 22PM 1 MS. POLK: May I play it for the jury, Your

02 49 25PM 2 Honor?

02 49 25PM 3 THE COURT: Yes.

02 50 02PM 4 (Exhibit 757 played.)

02 50 57PM 5 MS. DO: Your Honor, the defense reserves the

02 53 02PM 6 right under 106 to provide the full context to the

02 53 05PM 7 jury of these clips.

02 53 07PM 8 THE COURT: All right.

02 53 07PM 9 Q. BY MS. POLK: Sir, the discussion about

02 53 11PM 10 living on the edge -- what did that mean to you?

02 53 15PM 11 A. To me it meant really pushing my limits

02 53 20PM 12 to the point -- through any places where I might

02 53 27PM 13 think that I want to quit.

02 53 34PM 14 Q. Do you recall, Mr. Ray, on Sunday night

02 53 37PM 15 being asked to write intentions for the week?

02 53 48PM 16 A. No, I don't.

02 53 48PM 17 Q. Did you ever take the open mic during

02 53 50PM 18 open-mic sessions at Spiritual Warrior 2009?

02 53 58PM 19 A. I can't recall if I did.

02 53 58PM 20 Q. When we talked about the CDs reviewed

02 54 02PM 21 before taking the stand, you referenced a CD with a

02 54 07PM 22 male voice on it other than Mr. Ray?

02 54 07PM 23 A. Yes.

02 54 07PM 24 Q. Do you recall a time when people other

02 54 10PM 25 than Mr. Ray were speaking at the mic?  
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02 54 13PM 1 A. Yes.

02 54 13PM 2 Q. And what do you recall about that time?

02 54 15PM 3 A. It was a time where people could

02 54 18PM 4 really -- after they had a time to really soak in

02 54 23PM 5 things they wanted in life, they had a chance to

02 54 27PM 6 get up and say that in front of the whole group.

02 54 31PM 7 Q. Did you get up in front of whole group?

02 54 33PM 8 A. I don't recall if I did.

02 54 34PM 9 Q. You mentioned that you know someone

02 54 38PM 10 named -- or you knew someone named Mr. James Shore?

02 54 39PM 11 A. I didn't know him as a friend. I don't

02 54 43PM 12 know him or did not know him.

02 54 44PM 13 Q. Do you recall James Shore getting up at

02 54 47PM 14 the open mic and sharing his thoughts?

02 54 50PM 15 A. Yes. It moved me. It was very powerful

02 54 58PM 16 what he said.

02 55 04PM 17 Q. I'm going to show you state's

02 55 08PM 18 Exhibit 754, which is -- did you have the

02 55 12PM 19 opportunity before taking the stand to review this

02 55 16PM 20 particular audio?

02 55 17PM 21 A. Yes. Again, it looks the same as the

02 55 20PM 22 packaging as the rest. But I did not memorize the

02 55 27PM 23 number on it. Other than that, it looks like the

02 55 30PM 24 one I listened to.

02 55 32PM 25 Q. And the audio that you listened to that  
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02 55 34PM 1 was not the voice of James Ray, did you recognize

02 55 37PM 2 the voice?

02 55 37PM 3 A. I did not recognize the voice.

02 55 38PM 4 Q. What did you recognize about it?

02 55 40PM 5 A. I recognized about how he spoke about

02 55 48PM 6 being a samurai and how he wanted to bring that

02 55 49PM 7 into his life.

02 55 50PM 8 Q. When you heard the audio, did you

02 55 53PM 9 recognize who it was who was speaking?

02 55 55PM 10 A. I would not have recognized that it was

02 55 58PM 11 James Shore if he hadn't identified himself at the

02 56 01PM 12 beginning of the recording.

02 56 02PM 13 Q. Do you believe it is James Shore that's

02 56 05PM 14 on the recording?

02 56 05PM 15 A. Yes.

02 56 08PM 16 Q. And why?

02 56 08PM 17 A. Because I remember being, like I said,

02 56 12PM 18 being moved by that, what he was saying and how

02 56 18PM 19 powerful he said it.

02 56 20PM 20 MS. POLK: Your Honor, I move for the

02 56 22PM 21 admission of 754.

02 56 23PM 22 THE COURT: Ms. Do?

02 56 24PM 23 MS. DO: Subject to the earlier discussions,

02 56 28PM 24 Your Honor.

02 56 27PM 25 THE COURT: 754 is admitted.  
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02 56 26PM 1 (Exhibit 754 admitted.)

02 56 29PM 2 MS. POLK: May I play it for the jury, Your Honor?

02 56 31PM 3

02 56 31PM 4 THE COURT: Yes.

02 56 31PM 5 (Exhibit 754 played.)

02 56 28PM 6 Q. BY MS. POLK: The words "hi ya ya." Do you recall those being used over the week?

02 56 32PM 7 A. Yes.

02 56 33PM 8 Q. Where do those words come from? Do you know?

02 56 36PM 10 A. From James.

02 56 37PM 11 Q. James who?

02 56 37PM 12 A. James Ray.

02 56 39PM 13 Q. And in what context?

02 56 40PM 14 A. It was a way that we -- I can't remember specifically how he -- what the tradition was around it. It was a way to end -- when you had the opportunity to deliver to the group and for the group to acknowledge what you've delivered.

02 56 55PM 18 Q. Was there a time, Mr. Ray, when -- was there a time, sir, when the defendant spoke to all of you about the meaning of commitments you were making for the week?

02 56 58PM 19 A. Yes.

02 56 03PM 20 Q. Do you recall when that was?

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02 56 10PM 22

02 56 13PM 23

02 56 14PM 24

02 56 14PM 25

02 59 16PM 1 A. I don't know what day it was. It was --

02 59 18PM 2 the days were long. And so a lot of the exact

02 59 23PM 3 dates and times are a little fuzzy. I couldn't

02 59 27PM 4 give you a specific date and time.

02 59 29PM 5 Q. Do you recall the context in which

02 59 31PM 6 Mr. James Ray, the defendant, spoke to you about

02 59 34PM 7 your commitments?

02 59 35PM 8 A. Yes. There was -- you know -- the theme

02 59 38PM 9 was really around -- you know -- the samurai

02 59 44PM 10 tradition of honor and integrity and commitment.

02 59 47PM 11 That was a theme that seemed to go throughout the

02 59 51PM 12 event.

02 59 52PM 13 Q. Did that theme of honoring your

02 59 54PM 14 commitments have a connection to the statements

03 00 00PM 15 that were read by someone such as James Shore, for

03 00 04PM 16 example?

03 00 04PM 17 MS. DO: Objection. Leading and calls for

03 00 06PM 18 speculation.

03 00 07PM 19 THE COURT: Sustained.

03 00 10PM 20 Q. BY MS. POLK: Do you know if there was a

03 00 12PM 21 relationship between mister -- the defendant's

03 00 19PM 22 discussion with the participants about your

03 00 23PM 23 commitments and the statements made by participants

03 00 27PM 24 at the open mic?

03 00 27PM 25 MS. DO: Same objection. Calls for

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03 00 30PM 1 speculation.

03 00 30PM 2 THE COURT: Sustained.

03 00 32PM 3 Q. BY MS. POLK: For you what did the

03 00 37PM 4 discussion about commitments and living honorably

03 00 41PM 5 mean?

03 00 41PM 6 A. In the context of the event or in the

03 00 43PM 7 context of my life?

03 00 46PM 8 Q. In the context of the events.

03 00 47PM 9 A. In the context of the events -- you

03 00 50PM 10 know -- we were going to have opportunities in

03 00 57PM 11 exercises, and we also called growth opportunities,

03 01 01PM 12 to do certain things and make commitments around

03 01 09PM 13 our life and the things that we were going to do

03 01 12PM 14 around the event. We were going to have the

03 01 13PM 15 opportunity to make a commitment to do things at

03 01 18PM 16 the event.

03 01 20PM 17 Q. Such as what?

03 01 21PM 18 A. To write -- you know -- a vision. Or

03 01 31PM 19 there was certain things that we would make

03 01 33PM 20 commitments to doing. Or, for example, if we were

03 01 39PM 21 going to do something that we were going to play

03 01 42PM 22 full on. One of the big commitments was to play

03 01 46PM 23 full on.

03 02 04PM 24 Q. I'm going to show you Exhibit 758.

03 02 07PM 25 Again, in the exhibits you reviewed prior to taking

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03 02 09PM 1 the stand, do you recall reviewing an audio that

03 02 12PM 2 pertained to commitments and playing full on?

03 02 15PM 3 A. Yes.

03 02 15PM 4 Q. And who was the voice on that audio?

03 02 18PM 5 A. James Ray.

03 02 19PM 6 MS. POLK: Your Honor, I move for the

03 02 21PM 7 admission of 758.

03 02 23PM 8 THE COURT: Ms. Do?

03 02 25PM 9 MS. DO: Subject to 106, Your Honor.

03 02 27PM 10 THE COURT: Exhibit 758 is admitted.

03 02 32PM 11 (Exhibit 758 admitted.)

03 02 33PM 12 MS. POLK: May I play it for the jury, Your

03 02 36PM 13 Honor?

03 02 36PM 14 THE COURT: Yes.

03 02 56PM 15 (Exhibit 758 played.)

03 06 37PM 16 Q. BY MS. POLK: Sir, the jury has heard

03 06 40PM 17 that a vegetarian diet was served throughout the

03 06 44PM 18 week of Spintual Warrior 2009. Were you a

03 06 48PM 19 vegetarian?

03 06 48PM 20 A. No.

03 06 49PM 21 Q. Did you know you were going to have a

03 06 50PM 22 vegetarian diet?

03 06 53PM 23 A. No.

03 06 53PM 24 Q. The jury has heard about Sunday night

03 06 55PM 25 when participants were invited -- encouraged to cut

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03 06 59PM 1 their hair, to shave their head. Were you there  
 03 07 02PM 2 for that event?  
 03 07 02PM 3 **A. Yes.**  
 03 07 05PM 4 **Q. Did you shave your head?**  
 03 07 05PM 5 **A. Yes.**  
 03 07 05PM 6 **Q. Was that a difficult decision for you?**  
 03 07 07PM 7 **A. Yes.**  
 03 07 07PM 8 **Q. And how come?**  
 03 07 08PM 9 **A. Well, it's -- I was worried about what**  
 03 07 15PM 10 **family and friends would think about me when I got**  
 03 07 19PM 11 **home. So I think a lot about that. And at a**  
 03 07 27PM 12 **deeper level maybe having a bit of an unhealthy**  
 03 07 33PM 13 **attachment to how I looked.**  
 03 07 35PM 14 **Q. What did Mr. Ray tell you was the reason**  
 03 07 37PM 15 **for shaving your head?**  
 03 07 39PM 16 **A. I don't know the exact words, but it**  
 03 07 43PM 17 **was -- it seemed to be around -- somewhat around**  
 03 07 47PM 18 **that context that many people have an unhealthy**  
 03 07 51PM 19 **attachment to how they look, and so how they look**  
 03 07 56PM 20 **physically -- you know -- whether or not they buy**  
 03 08 02PM 21 **stuff to impress other people -- unhealthy**  
 03 08 04PM 22 **attachment to how they look.**  
 03 08 07PM 23 **Q. We heard through that last audio clip**  
 03 08 11PM 24 **Mr. Ray talk about playing full on. What did that**  
 03 08 15PM 25 **mean to you?**

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03 08 15PM 1 **A. To me it was giving 100 percent, not**  
 03 08 19PM 2 **quitting, pushing through whatever issues that come**  
 03 08 24PM 3 **up -- that might have come up for me.**  
 03 08 27PM 4 **Q. And in the context of the events of the**  
 03 08 29PM 5 **week, did you play full on?**  
 03 08 33PM 6 **A. Yes.**  
 03 08 33PM 7 **Q. Were there any events that you did not**  
 03 08 36PM 8 **want to participate in?**  
 03 08 39PM 9 **A. Well, I didn't want to participate in the**  
 03 08 42PM 10 **haircutting. I believe I already said that. For**  
 03 08 49PM 11 **me that was something that I just -- I really**  
 03 08 52PM 12 **didn't -- I just had an issue with the sweat lodge.**  
 03 09 00PM 13 **I really didn't want to go in the sweat lodge.**  
 03 09 03PM 14 **Q. Why not?**  
 03 09 04PM 15 **A. I had done one previously in San Diego,**  
 03 09 09PM 16 **and a friend of mine had done one and invited me to**  
 03 09 15PM 17 **go participate. And I didn't like it. I went in**  
 03 09 18PM 18 **for just a few minutes, and I felt claustrophobic.**  
 03 09 25PM 19 **I felt like I was suffocating because of the heat.**  
 03 09 28PM 20 **I left right away. So at the point which -- you**  
 03 09 34PM 21 **know -- we were heading down to the sweat lodge, I**  
 03 09 34PM 22 **was pretty afraid.**  
 03 09 36PM 23 **Q. And now we're talking about Thursday?**  
 03 09 39PM 24 **A. Correct.**  
 03 09 40PM 25 **Q. Why did you go into the defendant's sweat**

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03 09 44PM 1 lodge when you didn't want to?  
 03 09 45PM 2 **A. Because I wanted to play full on. I**  
 03 09 47PM 3 **wanted to discover what is it about me that -- you**  
 03 09 51PM 4 **know -- where the fear was coming from and how --**  
 03 09 55PM 5 **how that related to the results that I was**  
 03 09 58PM 6 **producing in my life.**  
 03 10 00PM 7 **Q. Why did you believe that playing full on**  
 03 10 03PM 8 **and doing mister -- the defendant's sweat lodge had**  
 03 10 09PM 9 **any relationship to your life?**  
 03 10 11PM 10 **A. Because I trusted him. He -- over the**  
 03 10 14PM 11 **course of the events, I made great progress on**  
 03 10 18PM 12 **stuff that I wanted to change in my life. So I**  
 03 10 21PM 13 **really trusted that he knew what he was doing and**  
 03 10 25PM 14 **that he had done it before and that it was just my**  
 03 10 29PM 15 **own fear that was coming up around the sweat lodge.**  
 03 10 34PM 16 **And by participating in the sweat lodge, I could**  
 03 10 37PM 17 **really take myself to the next level.**  
 03 10 43PM 18 **Q. Do you know what that next level was that**  
 03 10 45PM 19 **you believed you could take yourself to in the**  
 03 10 48PM 20 **defendant's sweat lodge?**  
 03 10 50PM 21 **A. It was more just about living a**  
 03 10 52PM 22 **courageous -- you know -- honorable life and not**  
 03 10 57PM 23 **letting myself get in my own way of being**  
 03 11 00PM 24 **successful in all different areas of my life, not**  
 03 11 03PM 25 **just financial but relational and all of the areas**

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03 11 07PM 1 **of my life.**  
 03 11 08PM 2 **Q. Were your beliefs based on what Mr. Ray**  
 03 11 11PM 3 **had taught you?**  
 03 11 11PM 4 **A. Yes.**  
 03 11 12PM 5 **Q. We're going to come back to the --**  
 03 11 18PM 6 **Your Honor, what time do you want to take**  
 03 11 19PM 7 **a break?**  
 03 11 20PM 8 **THE COURT: Any time really. If this is a**  
 03 11 22PM 9 **good point, we can do it.**  
 03 11 24PM 10 **MS. POLK: This would be fine.**  
 03 11 25PM 11 **THE COURT: Okay. Thank you.**  
 03 11 26PM 12 **Ladies and gentlemen, we'll take the**  
 03 11 27PM 13 **afternoon recess. I'm going to ask that you**  
 03 11 28PM 14 **reassemble at 3:30.**  
 03 11 31PM 15 **I want to speak to Mr. Ray briefly about**  
 03 11 35PM 16 **the rule of exclusion of witnesses. It has been**  
 03 11 37PM 17 **invoked in this case. And that means you cannot**  
 03 11 39PM 18 **discuss the case or your testimony with any other**  
 03 11 42PM 19 **witness until the trial is over.**  
 03 11 43PM 20 **You can't communicate with any other**  
 03 11 46PM 21 **witness about the case or your testimony until the**  
 03 11 48PM 22 **trial is completed. You can talk to the attorneys,**  
 03 11 51PM 23 **though, as long as other witnesses aren't present.**  
 03 11 54PM 24 **Do you understand?**  
 03 11 55PM 25 **THE WITNESS: Yes.**

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03 11 55PM 1 THE COURT: We will be in recess.  
 03 11 58PM 2 THE WITNESS: I have one question. If there  
 03 12 01PM 3 was another witness to call me to talk about  
 03 12 04PM 4 scheduling or something, is that okay or still  
 03 12 07PM 5 related to the case?

03 12 07PM 6 THE COURT: It would be best that those people  
 03 12 09PM 7 contact the attorneys. That would be the better  
 03 12 13PM 8 way to handle it and avoid any possible issue on  
 03 12 16PM 9 that.

03 33 41PM 10 (Recess.)

03 33 41PM 11 THE COURT: The record will show the presence  
 03 33 42PM 12 of the defendant, Mr. Ray, the attorneys, and the  
 03 33 44PM 13 jury. The witness, Mr. Stephen Ray, has returned  
 03 33 48PM 14 to the witness stand and remains under oath.

03 33 52PM 15 Ms. Polk?

03 33 53PM 16 MS. POLK: Thank you, Your Honor.

03 33 55PM 17 Q. Sir, the jury has heard testimony about  
 03 33 57PM 18 an exercise called the "Samurai Game" that  
 03 34 03PM 19 participants participated in in Spiritual  
 03 34 06PM 20 Warrior 2009. Did you participate in the Samurai  
 03 34 08PM 21 Game?

03 34 08PM 22 A. Yes.

03 34 08PM 23 Q. What did you understand the purpose of  
 03 34 10PM 24 that game was?

03 34 12PM 25 A. It was to reveal how we show up in life.  
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03 34 20PM 1 We had an opportunity to -- through how we  
 03 34 28PM 2 participate in the exercise helps to reveal how we  
 03 34 34PM 3 show up in our lives.

03 34 35PM 4 Q. Did somebody play God in that exercise?

03 34 38PM 5 A. Yes.

03 34 38PM 6 Q. Who?

03 34 40PM 7 A. James Ray.

03 34 41PM 8 Q. Did you participate in any of the  
 03 34 45PM 9 competitions?

03 34 46PM 10 A. Yes.

03 34 48PM 11 Q. Which one?

03 34 47PM 12 A. There was a competition where we were  
 03 34 49PM 13 required to hold our hands out by our sides and  
 03 34 53PM 14 hold up books. So it was two people, two warriors,  
 03 35 00PM 15 that were facing each other. And you held out the  
 03 35 04PM 16 books. And the competition was to see who could  
 03 35 07PM 17 hold the books out at their side the longest  
 03 35 11PM 18 without letting their arms drop.

03 35 13PM 19 Q. One warrior from each team?

03 35 15PM 20 A. Correct.

03 35 15PM 21 Q. Who was the warrior on the other team?

03 35 20PM 22 A. I do not know who that was.

03 35 20PM 23 Q. What was the result of that competition?

03 35 22PM 24 A. I lost.

03 35 23PM 25 Q. What was the consequence of losing?

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03 35 28PM 1 A. You were killed.

03 35 27PM 2 Q. Who killed you?

03 35 28PM 3 A. James Ray, or God, did.

03 35 31PM 4 Q. How was that experience for you?

03 35 33PM 5 A. It was -- I pulled a muscle in my  
 03 35 41PM 6 shoulder; so it was a little tough. It was -- for  
 03 35 45PM 7 me it was a very powerful exercise.

03 35 48PM 8 I -- I held those books up a lot longer  
 03 35 53PM 9 than I ever thought I could have. When they put  
 03 35 56PM 10 those on my hands my initial thought was oh, gosh.  
 03 36 02PM 11 There's no way I'm going to be able to hold these  
 03 36 05PM 12 up. And I don't know how long it went. It went a  
 03 36 08PM 13 long time.

03 36 10PM 14 Q. Was it intense?

03 36 11PM 15 A. It was very intense.

03 36 14PM 16 Q. What about it was powerful for you?

03 36 16PM 17 A. It showed me that -- you know -- how my  
 03 36 23PM 18 mind could trick me into thinking how I couldn't go  
 03 36 25PM 19 on, and I could do a lot more than I thought that I  
 03 36 28PM 20 could do.

03 36 28PM 21 Q. Did you conclude that your body could do  
 03 36 32PM 22 more than your mind was telling you you could do?

03 36 35PM 23 MS. DO: Objection, Your Honor. Leading the  
 03 36 38PM 24 witness.

03 36 38PM 25 THE COURT: Sustained.

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03 36 38PM 1 Q. BY MS. POLK: You said you hurt your  
 03 36 41PM 2 shoulder. How did you hurt your shoulder?

03 36 44PM 3 A. Something just -- something pulled in my  
 03 36 48PM 4 shoulder. I pulled a muscle or decided something  
 03 36 53PM 5 pulled in my shoulder.

03 36 54PM 6 Q. During that particular competition?

03 36 58PM 7 A. Yes.

03 36 58PM 8 Q. Is that -- what happened when you felt  
 03 37 00PM 9 something pull in your shoulder?

03 37 02PM 10 A. That's when I dropped the books.

03 37 03PM 11 Q. Did somebody address your shoulder  
 03 37 05PM 12 injury?

03 37 06PM 13 A. No. I was -- there was some staff  
 03 37 08PM 14 members that are Dream Teamers that were dressed  
 03 37 14PM 15 up. I think they were called "Angels of Death"  
 03 37 18PM 16 and -- let me backtrack.

03 37 20PM 17 I didn't die as I was supposed to right  
 03 37 24PM 18 away. I lost and I stood there. And James yelled,  
 03 37 28PM 19 die. And I just stood there. And I'm not sure how  
 03 37 33PM 20 many times he said it before it registered and I  
 03 37 38PM 21 fell on the ground. And then the Angels of Death  
 03 37 41PM 22 took me over to an area and covered me up with a  
 03 37 44PM 23 blanket.

03 37 45PM 24 Q. You said James yelled, die. Do you mean  
 03 37 48PM 25 the defendant?

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03 37 49PM 1 **A. James Ray, who was the God character.**  
 03 37 52PM 2 **Q. Why did it not register with you the**  
 03 37 55PM 3 **first time the defendant told you to die?**  
 03 38 06PM 4 **A. I don't know. I knew the rule was -- you**  
 03 38 08PM 5 **know -- if God tells you -- meaning James Ray --**  
 03 38 11PM 6 **says die, you're supposed to immediately fall on**  
 03 38 12PM 7 **the ground and not move. I don't know why it**  
 03 38 15PM 8 **didn't register.**  
 03 38 17PM 9 **Q. How many times did the defendant yell die**  
 03 38 19PM 10 **at you before it registered?**  
 03 38 22PM 11 **A. I don't know the exact number. It was**  
 03 38 26PM 12 **maybe several times.**  
 03 38 30PM 13 **Q. How did the Angels of Death move you**  
 03 38 35PM 14 **physically? How did they accomplish it?**  
 03 38 41PM 15 **A. I can't recall exactly. It seemed like**  
 03 38 43PM 16 **they just kind of took you by the arms and took**  
 03 38 48PM 17 **you -- I can't remember specifically how they moved**  
 03 39 00PM 18 **me.**  
 03 39 05PM 19 **Q. Was participation in the Samurai Game**  
 03 39 09PM 20 **optional?**  
 03 39 12PM 21 **A. I think everything is -- to me everything**  
 03 39 16PM 22 **is optional. People have a choice whether or not**  
 03 39 20PM 23 **to do it. So to me everything there was optional.**  
 03 39 24PM 24 **Q. And why did you choose to do the Samurai**  
 03 39 28PM 25 **Game?**

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03 39 05PM 1 **A. Because I thought it would be a great way**  
 03 39 07PM 2 **to test myself and test my limits. And I wanted**  
 03 39 12PM 3 **to -- I wanted to experience things I could learn**  
 03 39 16PM 4 **about myself by participating in the game.**  
 03 39 22PM 5 **Q. Did you elect not to do any of the**  
 03 39 24PM 6 **exercises during the week?**  
 03 39 26PM 7 **A. No.**  
 03 39 28PM 8 **Q. You did everything?**  
 03 39 27PM 9 **A. Yes. Everything that I can recall. I**  
 03 39 35PM 10 **don't recall -- I don't recall anything that I did**  
 03 39 38PM 11 **not participate in.**  
 03 39 39PM 12 **Q. Did you participate, then, in the Vision**  
 03 39 44PM 13 **Quest?**  
 03 39 44PM 14 **A. Yes.**  
 03 39 46PM 15 **Q. Did you have any food or water during the**  
 03 39 48PM 16 **36 hours of the Vision Quest?**  
 03 39 50PM 17 **A. No.**  
 03 39 51PM 18 **Q. Did you create a medicine wheel?**  
 03 39 53PM 19 **A. Yes.**  
 03 39 54PM 20 **Q. And did you stay inside the medicine**  
 03 39 56PM 21 **wheel?**  
 03 39 57PM 22 **A. Yes.**  
 03 39 59PM 23 **Q. Was there a way you were supposed to**  
 04 00 01PM 24 **enter the medicine wheel?**  
 04 00 01PM 25 **A. Yes. I can't remember specifically.**

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03 40 03PM 1 **There was a lot of instructions that were -- that**  
 03 40 07PM 2 **we were given about and around the medicine wheel.**  
 03 40 12PM 3 **I can't specifically remember the exact**  
 03 40 13PM 4 **instructions, but there was -- you were supposed to**  
 03 40 16PM 5 **enter from one area. I'm not sure if it was if you**  
 03 40 24PM 6 **were to enter from the south, exit to the west. I**  
 03 40 27PM 7 **can't remember the specific instruction. But it**  
 03 40 29PM 8 **was very specific about how you were to enter.**  
 03 40 31PM 9 **And you were then to -- you were to close**  
 03 40 34PM 10 **off the circle. And then you were not to leave**  
 03 40 37PM 11 **that circle for any reason until they came back and**  
 03 40 41PM 12 **got you to leave. And when they came back and got**  
 03 40 44PM 13 **you to leave, you were supposed to exit a certain**  
 03 40 47PM 14 **way as well.**  
 03 40 48PM 15 **Q. Did you ever leave your circle?**  
 03 40 50PM 16 **A. No.**  
 03 40 50PM 17 **Q. We've heard about an exercise involving**  
 03 40 56PM 18 **creating seven pouches. Did you do that?**  
 03 40 58PM 19 **A. Yes.**  
 03 40 58PM 20 **Q. When did you do that?**  
 03 40 59PM 21 **A. I did that when I was on the Vision Quest**  
 03 41 03PM 22 **within the medicine wheel.**  
 03 41 04PM 23 **Q. Did you have specific instructions on how**  
 03 41 06PM 24 **to create the pouches?**  
 03 41 08PM 25 **A. Yes. I don't recall those off the top of**  
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03 41 12PM 1 **my head. It was very specific instructions about**  
 03 41 16PM 2 **how to create those.**  
 03 41 19PM 3 **Q. And just backing up for one moment, at**  
 03 41 22PM 4 **the end of the Samurai Game did you participate in**  
 03 41 24PM 5 **a writing exercise of your own epitaph?**  
 03 41 28PM 6 **A. Yes.**  
 03 41 30PM 7 **Q. What happened with what you wrote?**  
 03 41 32PM 8 **A. For me it was -- it had me look at my**  
 03 41 40PM 9 **life and how I would want to be remembered. It had**  
 03 41 44PM 10 **me examine what I've done in my life and what I**  
 03 41 48PM 11 **have not done in my life.**  
 03 41 52PM 12 **It really had me deeply examine -- you**  
 03 41 56PM 13 **know -- how I've lived my life and how I would like**  
 03 42 00PM 14 **to live my life in the future.**  
 03 42 03PM 15 **Q. During -- you testified before we took**  
 03 42 07PM 16 **the break, sir, that you did not know that a sweat**  
 03 42 11PM 17 **lodge was part of Spiritual Warrior 2009. Had you**  
 03 42 16PM 18 **heard from somebody else that Mr. Ray does a sweat**  
 03 42 20PM 19 **lodge as part of Spiritual Warrior?**  
 03 42 21PM 20 **A. As a result of doing many of the events,**  
 03 42 27PM 21 **participants have an opportunity to create what**  
 03 42 28PM 22 **they call "warrior routes." It was basically --**  
 03 42 33PM 23 **that's a group or a team of individuals that have**  
 03 42 38PM 24 **done the event together and they stay in contact.**  
 03 42 42PM 25 **And in some cases there is a work book to**  
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03 42 44PM 1 follow after the event is over so that you can keep  
 03 42 50PM 2 the stuff that you learned alive and keep moving  
 03 42 53PM 3 forward.  
 03 43 00PM 4 One of the participants within my warrior  
 03 43 01PM 5 group, she may have -- I think back -- she may have  
 03 43 05PM 6 said something about that there -- that they did a  
 03 43 08PM 7 sweat lodge in theirs and that her husband had a  
 03 43 09PM 8 tough time with it.  
 03 43 11PM 9 Q. Did you know specifically when you began  
 03 43 14PM 10 the week of October 2009 at Angel Valley that you  
 03 43 19PM 11 would be doing a sweat lodge?  
 03 43 22PM 12 A. No. One of the things that I've learned  
 03 43 27PM 13 in doing many of the events is that almost  
 03 43 32PM 14 anything -- there is -- stuff is a surprise. And I  
 03 43 38PM 15 learned not to assume that anything would or would  
 03 43 41PM 16 not happen.  
 03 43 42PM 17 So I didn't -- just because she said that  
 03 43 46PM 18 they had done it that year didn't necessarily mean  
 03 43 49PM 19 it was going to happen the year that I did it.  
 03 43 53PM 20 Q. When you went without food and water for  
 03 43 56PM 21 36 hours on the Vision Quest, if you had known that  
 03 44 00PM 22 a sweat lodge was coming, would that have changed  
 03 44 02PM 23 your mind-set toward abstaining from water for that  
 03 44 08PM 24 period of time?  
 03 44 08PM 25 A. Yeah. I think it would have been -- I  
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03 44 12PM 1 would have thought that it would have been stupid  
 03 44 14PM 2 to -- to go without water and become dehydrated  
 03 44 19PM 3 prior to going in somewhere where I was going to be  
 03 44 22PM 4 facing that kind of heat.  
 03 44 27PM 5 Q. There were a couple of the audio clips we  
 03 44 30PM 6 played. We heard the defendant talk about dying.  
 03 44 34PM 7 Was that a theme for the week, in your mind?  
 03 44 37PM 8 A. Yeah. There was -- over and over there  
 03 44 40PM 9 was a context around dying. In -- the context was  
 03 44 45PM 10 that for something to grow, something has to die  
 03 44 50PM 11 first. For example, when you have a tree, the  
 03 44 54PM 12 leaves die off the tree, which allows the new buds  
 03 44 59PM 13 and new leaves to grow on the tree.  
 03 45 08PM 14 Q. And we've heard discussions of pushing  
 03 45 12PM 15 the threshold. In the context of dying, what did  
 03 45 16PM 16 that mean to you, pushing your own threshold?  
 03 45 20PM 17 A. To me it was around -- there would be  
 03 45 24PM 18 stuff that we might do that I might be scared or  
 03 45 29PM 19 that I might -- that I might feel really  
 03 45 38PM 20 uncomfortable physically doing.  
 03 45 40PM 21 I used to be a long-distance runner, and  
 03 45 48PM 22 I ran a couple marathons. There was a certain  
 03 45 49PM 23 point where I -- when I did the marathons where I  
 03 45 51PM 24 thought I couldn't do it anymore. I couldn't take  
 03 45 51PM 25 another step. And so the way I looked at it was,  
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03 45 54PM 1 however uncomfortable I felt, I could push through  
 03 45 58PM 2 it.  
 03 45 59PM 3 Q. Did you believe at any time that the  
 03 46 01PM 4 defendant was going to lead you in an activity in  
 03 46 04PM 5 which you could die?  
 03 46 05PM 6 A. No.  
 03 46 07PM 7 MS. DO: Objection, Your Honor. Leading.  
 03 46 08PM 8 THE COURT: Sustained.  
 03 46 28PM 9 Q. BY MS. POLK: I'm going to show you  
 03 46 31PM 10 what's been marked as Exhibit 760. Do you  
 03 46 34PM 11 recognize it as another audio clip?  
 03 46 37PM 12 A. Yes. It looks like the same packaging as  
 03 46 41PM 13 the other ones I listened to. I didn't memorize  
 03 46 44PM 14 the numbers. I don't know if it's -- other than  
 03 46 47PM 15 the way the package looks, it looks like the same  
 03 46 50PM 16 ones I listened to.  
 03 46 51PM 17 Q. Do you recall reviewing an audio clip in  
 03 46 53PM 18 which the defendant spoke to you of impending  
 03 46 56PM 19 death?  
 03 46 58PM 20 A. Yes.  
 03 46 57PM 21 Q. And was that in the context of the  
 03 46 59PM 22 conversation you and I just had about the theme of  
 03 47 02PM 23 death and what it meant?  
 03 47 04PM 24 A. Yes.  
 03 47 04PM 25 Q. And on the audio you recognize it to be  
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03 47 07PM 1 the voice of the defendant, James Ray?  
 03 47 10PM 2 A. Yes.  
 03 47 10PM 3 MS. POLK: Your Honor, I move for the  
 03 47 11PM 4 admission of Exhibit 760.  
 03 47 14PM 5 THE COURT: Ms. Do?  
 03 47 15PM 6 MS. DO: Subject to the objection providing  
 03 47 18PM 7 additional context.  
 03 47 18PM 8 THE COURT: With that understanding, 760 is  
 03 47 22PM 9 admitted.  
 03 47 24PM 10 (Exhibit 760 admitted.)  
 03 47 25PM 11 MS. POLK: May I play it for the jury, Your  
 03 47 28PM 12 Honor?  
 03 47 29PM 13 THE COURT: Yes.  
 03 47 44PM 14 (Exhibit 760 played.)  
 03 48 43PM 15 Q. BY MS. POLK: Sir, did you understand the  
 03 48 44PM 16 comments by the defendant about impending death to  
 03 48 47PM 17 be metaphorical?  
 03 48 48PM 18 A. Yes.  
 03 48 53PM 19 Q. Let's move now to the sweat lodge event  
 03 48 57PM 20 that was Thursday afternoon. Do you recall the  
 03 49 01PM 21 lecture or the comments by the defendant leading up  
 03 49 04PM 22 to the sweat lodge?  
 03 49 05PM 23 A. Not entirely. Again, there was a lecture  
 03 49 14PM 24 just about every day. And so I don't particularly  
 03 49 18PM 25 remember the exact words of the lecture right  
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03 49 23PM 1 before the event.

03 49 24PM 2 Q. Do you recall when it was that you

03 49 26PM 3 understood that you were going to be led into a

03 49 28PM 4 sweat lodge by the defendant?

03 49 30PM 5 A. Seemed like when -- seemed like right

03 49 32PM 6 before we went to breakfast. Again, the order is a

03 49 34PM 7 little foggy for me, but I remember there was -- we

03 49 36PM 8 were told we were only going to be able to eat a

03 49 38PM 9 light breakfast. And then we were going to be

03 49 40PM 10 going down to do the sweat lodge. And there was

03 49 42PM 11 instructions around the sweat lodge.

03 50 04PM 12 Q. Let me see if I can help you recall the

03 50 06PM 13 time. When was it that your Vision Quest ended?

03 50 08PM 14 A. It ended -- I think it was -- I think it

03 50 10PM 15 was the morning of the sweat lodge.

03 50 12PM 16 Q. That would be Thursday morning?

03 50 14PM 17 A. Yes.

03 50 16PM 18 Q. And from your Vision Quest, where did you

03 50 18PM 19 go?

03 50 20PM 20 A. The exact order is a little fuzzy. I

03 50 22PM 21 thought that we -- after the Vision Quest, we

03 50 24PM 22 dropped off our stuff and then had some breakfast

03 50 26PM 23 or had some breakfast and then dropped off our

03 50 28PM 24 stuff.

03 50 30PM 25 Q. Do you recall approximately when it was

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03 50 32PM 1 that you entered Mr. Ray's, the defendant's, sweat

03 50 34PM 2 lodge?

03 50 36PM 3 A. It seemed like it was during the

03 50 38PM 4 afternoon or early afternoon that day.

03 50 40PM 5 Q. And how much time do you recall having to

03 50 42PM 6 prepare yourself mentally for this event?

03 50 44PM 7 A. Didn't seem like that there was much time

03 50 46PM 8 at all. It seemed like we really had to rush to go

03 50 48PM 9 and get -- to go and get changed. Because we were

03 51 00PM 10 told to change into really light clothing or a

03 51 02PM 11 bathing suit.

03 51 04PM 12 So it was -- it seemed like there was

03 51 06PM 13 very little time at all before we had to go report

03 51 08PM 14 to the site where the sweat lodge was.

03 51 10PM 15 Q. And you spoke earlier about a fear or a

03 51 12PM 16 dislike you had of sweat lodges. How did you deal

03 51 14PM 17 with that upon learning that you were going to be

03 51 16PM 18 led into a sweat lodge by the defendant?

03 51 18PM 19 A. It really concerned me. I was freaking

03 51 20PM 20 out. I was -- I remember thinking to myself, oh

03 51 22PM 21 gosh, here we go. Knowing I -- having the brief

03 51 24PM 22 experience I had with one before, it made me

03 51 26PM 23 extremely uncomfortable.

03 51 28PM 24 Q. What do you recall Mr. Ray, the

03 51 30PM 25 defendant, telling you about what to expect inside

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03 52 18PM 1 his sweat lodge?

03 52 19PM 2 A. Well, during the lead-up time when we

03 52 21PM 3 were talking about the sweat lodge, one of the

03 52 23PM 4 participants asked about the sweat lodge. And

03 52 25PM 5 Mr. Ray had said -- again, I don't know that these

03 52 27PM 6 are his exact words, but the gist of them was that

03 52 29PM 7 you haven't been in a sweat until you've been in my

03 52 31PM 8 sweat lodge.

03 52 33PM 9 And that it was -- it was going to be

03 52 35PM 10 extremely uncomfortable, even to the point that you

03 52 37PM 11 might think that you're going to die, but you're

03 52 39PM 12 going to be able to push through it --

03 52 41PM 13 Q. Did you ever learn from Mr. Ray who built

03 52 43PM 14 the sweat lodge that you went into?

03 52 45PM 15 A. I don't know the name of the person that

03 52 47PM 16 built it. There was some discussion that it was

03 52 49PM 17 being built -- that he was having it built.

03 53 01PM 18 Q. He, being who?

03 53 03PM 19 A. Mr. Ray was having it built to his

03 53 05PM 20 specifications.

03 53 07PM 21 Q. Do you recall Mr. Ray saying it was built

03 53 09PM 22 to his specifications?

03 53 11PM 23 A. He was having it built the way he wanted

03 53 13PM 24 it.

03 53 15PM 25 Q. In your experiences with Mr. Ray, did he

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03 53 17PM 1 often direct how things were to be done?

03 53 19PM 2 MS. DO: Objection. Leading.

03 53 21PM 3 THE COURT: Sustained.

03 53 23PM 4 Q. BY MS. POLK: What was your experience

03 53 25PM 5 with Mr. Ray in terms of his level of supervision

03 53 27PM 6 or direction of activities that you participated

03 53 29PM 7 in?

03 53 31PM 8 MS. DO: Objection. Foundation.

03 53 33PM 9 THE COURT: Overruled.

03 53 35PM 10 You may answer that.

03 53 37PM 11 THE WITNESS: My experience with him, having

03 53 39PM 12 been a participant and more so being on the Dream

03 53 41PM 13 Team, he was very hands on and extremely involved

03 53 43PM 14 in every detail of what happens, in fact, down to

03 53 45PM 15 the temperature of the room, to how chairs were

03 53 47PM 16 placed.

03 53 49PM 17 I mean, it was -- one of the things that

03 53 51PM 18 I admired about him was that he gives attention to

03 53 53PM 19 detail. That was one of the things that I wanted

03 53 55PM 20 in my life. And I admired that about him to have

03 53 57PM 21 that kind of -- you know -- passion and just

03 53 59PM 22 impeccable attention to detail.

03 54 01PM 23 Q. Did you -- did Mr. Ray ever tell you

03 54 03PM 24 whether he had ever done sweat lodges in the past?

03 54 05PM 25 A. It seems like a part of that -- I don't

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03 55 03PM 1 know the exact wording. As a part of that  
 03 55 08PM 2 introduction, he said you haven't done -- like I  
 03 55 14PM 3 said before -- you haven't done a sweat lodge until  
 03 55 19PM 4 you've done one of my sweat lodges, that he had  
 03 55 23PM 5 experience in doing sweat lodges.

03 55 28PM 6 Q. Did Mr. Ray, the defendant, use the word  
 03 55 29PM 7 "altered experience" in describing what was to  
 03 55 31PM 8 happen to you inside his sweat lodge?

03 55 37PM 9 A. Yes. In the introduction to the  
 03 55 41PM 10 exercise, he said something to the effect you may  
 03 55 50PM 11 have a mind- or conscious-altering experience.

03 55 53PM 12 Q. Was that your expectation going in the  
 03 55 54PM 13 sweat lodge?

03 55 54PM 14 A. I didn't necessarily expect it. There  
 03 55 57PM 15 has been some things that happened in some of the  
 03 56 00PM 16 events that I had done with him in the past where  
 03 56 04PM 17 there -- he had said, you may have a mind-altering  
 03 56 09PM 18 experience, and I didn't. So I was going into it  
 03 56 15PM 19 playing full-on. I was going to see what would  
 03 56 18PM 20 happen.

03 56 18PM 21 Q. Did Mr. Ray provide you with instructions  
 03 56 21PM 22 on how to enter and exit the sweat lodge?

03 56 25PM 23 A. Yes.

03 56 25PM 24 Q. What were they?

03 56 28PM 25 A. We were to enter through the south  
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03 56 30PM 1 entrance, and we were to turn to our left and  
 03 56 34PM 2 continue around the outside of the structure until  
 03 56 38PM 3 we get -- until we got to the area where the door  
 03 56 43PM 4 was. We were to pack in as tight as possible.

03 56 47PM 5 And when there was no more room left,  
 03 56 50PM 6 then the rest of the people were to also enter and  
 03 56 53PM 7 turn to their left, filling up the row in front of  
 03 56 59PM 8 the people that had gone in before us.

03 57 02PM 9 Q. You mentioned that the defendant said you  
 03 57 05PM 10 would feel like you're going to die. What was that  
 03 57 08PM 11 impact on you?

03 57 10PM 12 A. Well, the impact on me was it was going  
 03 57 14PM 13 to be -- for me that it was going to be very  
 03 57 17PM 14 uncomfortable and that I might be afraid. I might  
 03 57 24PM 15 be very uncomfortable.

03 57 27PM 16 Q. Did Mr. Ray tell you whether you would  
 03 57 32PM 17 die in there?

03 57 32PM 18 A. He said you might feel like you're going  
 03 57 35PM 19 to die but you're not.

03 57 37PM 20 Q. Did the defendant give you any  
 03 57 40PM 21 instructions on whether or not you could leave  
 03 57 43PM 22 between rounds?

03 57 48PM 23 A. Yeah. There was a very explicit rule  
 03 57 52PM 24 that no one could leave in between rounds. So once  
 03 57 52PM 25 the flap of the structure was closed, no one could  
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03 57 56PM 1 leave until that flap -- until the round was over  
 03 58 01PM 2 and the door was reopened.

03 58 03PM 3 Q. Did you know how long the defendant was  
 03 58 06PM 4 going to conduct his sweat lodge for when you  
 03 58 08PM 5 entered it?

03 58 08PM 6 A. No.

03 58 11PM 7 Q. Did he ever tell you how long he would be  
 03 58 13PM 8 in there?

03 58 14PM 9 A. No.

03 58 19PM 10 Q. How did you physically feel as you were  
 03 58 18PM 11 going in?

03 58 24PM 12 A. I felt scared, and I felt like -- I  
 03 58 28PM 13 remember thinking oh, gosh. Here we go, and really  
 03 58 33PM 14 not knowing really what to expect.

03 58 38PM 15 Q. What was your health like when you went  
 03 58 35PM 16 into the defendant's sweat lodge?

03 58 38PM 17 A. I was healthy.

03 58 39PM 18 Q. Were you feeling at all sick before you  
 03 58 41PM 19 went in the sweat lodge?

03 58 42PM 20 A. No.

03 58 43PM 21 Q. I'm going to put up on the overhead  
 03 58 46PM 22 Exhibit 414. And we have it, sir, with the  
 03 58 55PM 23 entrance over here to the right of the exhibit.  
 03 58 57PM 24 And you can see that north is up.

03 58 59PM 25 You made a reference to the south  
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03 59 01PM 1 entrance. Did you know that, in fact, the door was  
 03 59 06PM 2 at the south?

03 59 07PM 3 A. No. It seems like in other events --  
 03 59 11PM 4 again, I'm trying to remember. I can't remember  
 03 59 15PM 5 specifically, but there had been another event that  
 03 59 17PM 6 I went to called "Practical Mysticism," where we  
 03 59 22PM 7 had a drum circle. And we -- there was always a  
 03 59 24PM 8 certain way you entered the circle. And it was  
 03 59 28PM 9 "basically" the same -- similar instructions that  
 03 59 31PM 10 you would enter.

03 59 32PM 11 Again, I can't remember specifically it  
 03 59 34PM 12 was the south. But you entered through that  
 03 59 37PM 13 entrance. And you turned to your left and filled  
 03 59 42PM 14 up the outer row and then inner row.

03 59 45PM 15 Q. Where in the line to get into the sweat  
 03 59 47PM 16 lodge were you?

03 59 48PM 17 A. I think I was either the fifth or the  
 03 59 53PM 18 sixth person.

03 59 58PM 19 Q. I'm going to put up on the overhead  
 04 00 01PM 20 Exhibit 143 and ask you first, before the  
 04 00 05PM 21 participants lined up to go into the sweat lodge,  
 04 00 08PM 22 was there another conversation with the defendant  
 04 00 11PM 23 near the fire outside the sweat lodge?

04 00 13PM 24 A. Yes. As I recall, part of the -- the  
 04 00 20PM 25 first part of the exercise we were told to bring  
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04 00 26PM 1 some paperwork, some writing, that we had been  
04 00 28PM 2 doing over the course of the event starting near  
04 00 34PM 3 the beginning of the event.

04 00 36PM 4 And we were -- as I recall, we were to  
04 00 38PM 5 bring that writing. I think what he called it was  
04 00 44PM 6 "recapitulations," and a rock.

04 00 45PM 7 And we were to bring those, as I recall,  
04 00 47PM 8 with us to when we reported for the sweat lodge.  
04 00 52PM 9 And then before we went into the sweat lodge, we  
04 00 56PM 10 gathered near the fire and had an opportunity to --  
04 01 00PM 11 and I don't recall what was said prior to -- we had  
04 01 06PM 12 an opportunity to place our -- those papers and a  
04 01 12PM 13 rock into the fire.

04 01 15PM 14 I don't remember the context or what he  
04 01 17PM 15 delivered specifically around at the -- whether it  
04 01 19PM 16 was releasing that energy or that -- those issues  
04 01 26PM 17 that were related to that, those writings that we  
04 01 28PM 18 did. But we had an opportunity to burn those up in  
04 01 31PM 19 the fire and place the rock in the fire as well.

04 01 34PM 20 Q. Did you do that?

04 01 35PM 21 A. Yes.

04 01 35PM 22 Q. And you got close to the fire?

04 01 37PM 23 A. Yes.

04 01 37PM 24 Q. Did you notice anybody around the fire  
04 01 40PM 25 getting sick?

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04 01 41PM 1 A. No.

04 01 41PM 2 Q. Did Mr. Ray make any comments to you and  
04 01 45PM 3 the other participants about the heat -- expected  
04 01 48PM 4 heat in the sweat lodge at that time?

04 01 50PM 5 A. Just that it was going to be hot.

04 01 55PM 6 Q. Did you ever meet the fire tender?

04 01 58PM 7 A. No. Well, let me backtrack. He may have  
04 02 05PM 8 been introduced, now that I think about it. He may  
04 02 08PM 9 have been introduced prior to us going in, as I  
04 02 12PM 10 recall. I think that he was out there tending  
04 02 15PM 11 them. And he may have been introduced to us that  
04 02 20PM 12 he was going to be the one tending the fire and  
04 02 23PM 13 taking care of the rocks.

04 02 25PM 14 Q. Do you recall any conversation about the  
04 02 27PM 15 rocks themselves?

04 02 29PM 16 A. A little bit. Just around that they were  
04 02 34PM 17 sacred rocks that I think he called "grandfathers"  
04 02 38PM 18 and that -- it was something that there was -- that  
04 02 48PM 19 was sacred, that that area and those rocks were  
04 02 52PM 20 something that was sacred.

04 02 54PM 21 Q. And looking at the photograph I placed up  
04 02 56PM 22 over on the overhead, do you recognize yourself in  
04 02 59PM 23 that photograph?

04 03 10PM 24 A. I do not see myself.

04 03 11PM 25 Q. Let me just let you look at the

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04 03 14PM 1 photograph of person just to see.

04 03 31PM 2 A. No. I still don't see myself.

04 03 33PM 3 Q. Do you recognize where the entrance to  
04 03 35PM 4 the sweat lodge is in this photograph?

04 03 37PM 5 A. Yes. It appears that it's just past the  
04 03 40PM 6 people over here.

04 03 46PM 7 Q. Now, going back to Exhibit 414, which is  
04 03 49PM 8 on the overhead, will you draw for the jury how you  
04 03 52PM 9 entered. And what you can do is just press on the  
04 03 55PM 10 screen and it will draw.

04 04 01PM 11 A. You want me to go all the way around?

04 04 03PM 12 Q. Show the jury how you entered. And then  
04 04 05PM 13 wherever you stopped, make a mark. Let me give you  
04 04 24PM 14 a new color. Where is it that you stopped?

04 04 26PM 15 A. Approximately this area here.

04 04 28PM 16 Q. Did additional people come in the sweat  
04 04 31PM 17 lodge after this row that you've drawn?

04 04 34PM 18 A. Yes.

04 04 34PM 19 Q. Why don't you draw where that row went.

04 04 34PM 20 A. Okay.

04 04 52PM 21 Q. Then show the jury, if you would, where  
04 04 57PM 22 Mr. Ray was sitting. How close, sir, were you to  
04 05 01PM 23 the defendant inside his sweat lodge?

04 05 03PM 24 A. I was -- I think I was either the fifth  
04 05 08PM 25 or sixth person. As I recall, it went Mr. Ray, his

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04 05 17PM 1 director of operations, Megan, then I think it then  
04 05 24PM 2 went his assistant, his executive assistant. I  
04 05 29PM 3 forgot her name. I think it's Taylor. And then  
04 05 32PM 4 his audio/visual guy. I think his name is Michael.  
04 05 35PM 5 And then it was -- I was after that.

04 05 38PM 6 Q. We've heard that participants brought in  
04 05 42PM 7 some pouches, the ones that you made. Did you take  
04 05 45PM 8 your pouches in?

04 05 46PM 9 A. Yes.

04 05 46PM 10 Q. And what did you do with your pouch?

04 05 48PM 11 A. I hung it above me where I was sitting.

04 05 51PM 12 Q. The way you illustrated this for us,  
04 05 57PM 13 there is two rows. Can you describe for the jury  
04 06 00PM 14 whether or not there were people in between the  
04 06 02PM 15 place where the defendant was seated and the pit  
04 06 05PM 16 with the rocks.

04 06 05PM 17 A. No. There was not.

04 06 14PM 18 Q. How tight were you in there?

04 06 16PM 19 A. We were instructed to pack in as tight as  
04 06 22PM 20 possible. So we were really, really close  
04 06 24PM 21 together, uncomfortably close together.

04 06 28PM 22 Q. Do you recall the beginning of the  
04 06 31PM 23 ceremony by the defendant?

04 06 32PM 24 A. Somewhat. You mean -- are you talking  
04 06 41PM 25 after the door closed?

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04 06 42PM 1 Q. Well, how -- did the door close at some  
 04 06 46PM 2 point?  
 04 06 48PM 3 A. Yes. The first thing was the -- once  
 04 06 51PM 4 everyone was packed in there -- again, it's a  
 04 06 55PM 5 little bit of a blur. Once everyone was in there,  
 04 06 59PM 6 then there was some -- I think there was some  
 04 07 03PM 7 additional instruction that there was going to be  
 04 07 05PM 8 something about chanting.  
 04 07 08PM 9 There was going to be some chanting and  
 04 07 09PM 10 then the hot rocks were brought in. And when I say  
 04 07 14PM 11 "brought in," the fire tender had a pitchfork or  
 04 07 20PM 12 something like that.  
 04 07 21PM 13 They brought -- the rocks were brought in  
 04 07 23PM 14 and dumped into the pit in the center. And when  
 04 07 28PM 15 there was a number of rocks -- I don't know the  
 04 07 30PM 16 exact number that were in the pit -- then the door  
 04 07 34PM 17 was shut.  
 04 07 35PM 18 Q. Do you know who it was that brought the  
 04 07 38PM 19 hot rocks and put them in the pit?  
 04 07 40PM 20 A. I couldn't see outside, so I did not see  
 04 07 45PM 21 who was bringing the rocks in. I could not see  
 04 07 48PM 22 outside.  
 04 07 48PM 23 Q. How did the rocks get into the pit?  
 04 07 50PM 24 Could you see that?  
 04 07 51PM 25 A. Yes. I think there was a pitchfork or a  
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04 07 55PM 1 shovel that was scooted in so the rock was -- I  
 04 07 59PM 2 think it might have been a pitchfork. So the rock  
 04 08 02PM 3 or rocks was sitting on the pitchfork. And it was  
 04 08 05PM 4 slid into the structure, and then it was slid all  
 04 08 11PM 5 the way to the pit and then dumped into the pit.  
 04 08 13PM 6 Q. Did you see who was sliding it all the  
 04 08 15PM 7 way to the pit?  
 04 08 18PM 8 A. No. I don't recall who it was that was  
 04 08 18PM 9 the person that was sliding it to the pit.  
 04 08 21PM 10 Q. Once the rocks were in the pit, was water  
 04 08 24PM 11 placed on the rocks?  
 04 08 24PM 12 A. Once the rocks were in the pit, the cover  
 04 08 31PM 13 or the door was closed, and then Mr. Ray moved  
 04 08 36PM 14 forward with a bucket of water and poured water  
 04 08 40PM 15 onto the hot rocks.  
 04 08 41PM 16 Q. Could you see the defendant pour the  
 04 08 43PM 17 water on the rocks?  
 04 08 45PM 18 A. Yes.  
 04 08 45PM 19 Q. Then what happened? How did the ceremony  
 04 08 48PM 20 begin?  
 04 08 48PM 21 A. Then once the water hit the rocks, it was  
 04 08 55PM 22 a blast of steam that went up through the  
 04 09 03PM 23 structure. And then it was kind of a wave that  
 04 09 03PM 24 went over us. And then there was -- as I recall,  
 04 09 08PM 25 there was some chanting or singing that went on.  
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04 09 13PM 1 Q. From the beginning you could feel what?  
 04 09 16PM 2 A. Well, from the beginning once -- I mean,  
 04 09 19PM 3 before the rocks even came on, I was sweating. It  
 04 09 24PM 4 was already fairly warm in there even before the  
 04 09 26PM 5 rocks came in. The rocks came in and I could even  
 04 09 32PM 6 feel -- I could feel heat just from the rocks.  
 04 09 34PM 7 And then when the water hit the rocks, it  
 04 09 36PM 8 was really just a blast of steam, a blast of heat,  
 04 09 43PM 9 that traveled up and through the structure and just  
 04 09 48PM 10 kind of hit you like a wave of heat.  
 04 09 51PM 11 Q. Did you hear people say things in  
 04 09 53PM 12 reaction to the heat?  
 04 09 54PM 13 A. Yeah. People were -- I think people  
 04 10 01PM 14 were -- it sounded like people were surprised by  
 04 10 06PM 15 how hot it was.  
 04 10 09PM 16 Q. Were you?  
 04 10 09PM 17 A. I was -- yeah. I was. Because I  
 04 10 11PM 18 couldn't -- I felt like I was -- I couldn't even  
 04 10 15PM 19 breathe. It was so hot, I covered up my nose and  
 04 10 16PM 20 my mouth. I felt like I couldn't even breathe.  
 04 10 22PM 21 Q. How early on did you feel like you  
 04 10 25PM 22 couldn't breathe?  
 04 10 26PM 23 A. The minute the steam hit, it was right  
 04 10 29PM 24 away. So I covered my nose and my mouth with  
 04 10 33PM 25 the -- initially with my hand. And then as I got  
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04 10 37PM 1 really sweaty, then I -- I was wearing a light tank  
 04 10 42PM 2 top and it got wet. So I put that over my mouth  
 04 10 47PM 3 because it was -- the heat was so intense.  
 04 10 49PM 4 Q. Did you think about getting out?  
 04 10 50PM 5 A. Not at that point.  
 04 10 52PM 6 Q. Why not?  
 04 10 52PM 7 A. Well, once that initial wave hits you, it  
 04 10 57PM 8 was uncomfortably warm. It hit me and then for a  
 04 11 01PM 9 second I thought, wow. And then that kind of  
 04 11 06PM 10 dissipated where, like I said, it was very hot and  
 04 11 09PM 11 it was uncomfortable, but I didn't think that I  
 04 11 12PM 12 needed to leave.  
 04 11 17PM 13 Q. How long was that first round? Do you  
 04 11 20PM 14 recall?  
 04 11 20PM 15 A. I didn't have a watch on. It felt like  
 04 11 23PM 16 it was forever. I don't know. I don't know what  
 04 11 26PM 17 the length of the round was. I don't know what the  
 04 11 28PM 18 length of how long the in-between rounds were. It  
 04 11 34PM 19 just really felt like it was forever.  
 04 11 37PM 20 Q. When the first round ended, did you think  
 04 11 40PM 21 about getting out?  
 04 11 41PM 22 A. No. I felt uncomfortable. I didn't feel  
 04 11 47PM 23 like I needed to get out.  
 04 11 48PM 24 Q. At some point were you aware that people  
 04 11 49PM 25 were leaving the sweat lodge?  
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04 11 51PM 1 **A. Yes. There was -- I remember one of**  
 04 12 00PM 2 **Mr. Ray's employees, Greg, who left. The round**  
 04 12 08PM 3 **ended, and it opened, and he said, I just need to**  
 04 12 12PM 4 **get out of here.**  
 04 12 17PM 5 **Q. And Greg was someone sitting next to you?**  
 04 12 19PM 6 **A. No. He was not sitting next to me. I'm**  
 04 12 24PM 7 **not sure how far around the circle he was from me,**  
 04 12 25PM 8 **but he was not sitting next to me.**  
 04 12 29PM 9 **Q. Did you hear the defendant respond when**  
 04 12 31PM 10 **Greg said, I have to get out of here?**  
 04 12 31PM 11 **A. Yes.**  
 04 12 32PM 12 **Q. And what did he say?**  
 04 12 35PM 13 **A. He said something to the effect -- I**  
 04 12 37PM 14 **don't know if it's the exact words -- something to**  
 04 12 41PM 15 **the effect of you're more than that.**  
 04 12 43PM 16 **Q. Did you ever hear more comments from the**  
 04 12 46PM 17 **defendant to Greg about wanting to leave?**  
 04 12 51PM 18 **A. Yes. He really heavily encouraged Greg**  
 04 12 58PM 19 **to stay and just work through it. And I don't know**  
 04 13 02PM 20 **how much time it was, but it was -- he was really,**  
 04 13 05PM 21 **really encouraging Greg to stay in.**  
 04 13 07PM 22 **Q. And what did Greg do?**  
 04 13 08PM 23 **A. Greg left.**  
 04 13 11PM 24 **Q. Did you hear what Greg said when he left?**  
 04 13 11PM 25 **A. When he left, he was outside. And I**  
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04 13 15PM 1 **heard him -- he was being encouraged to come back**  
 04 13 19PM 2 **in.**  
 04 13 19PM 3 **Q. By whom?**  
 04 13 28PM 4 **A. By Mr. Ray. And Greg didn't -- by the**  
 04 13 31PM 5 **way Greg spoke, he didn't sound like he wanted to**  
 04 13 33PM 6 **come back in.**  
 04 13 37PM 7 **Q. Did you hear Mr. Ray specifically address**  
 04 13 38PM 8 **Greg about --**  
 04 13 42PM 9 **A. He said, come back in and honor your**  
 04 13 43PM 10 **commitment.**  
 04 13 46PM 11 **Q. Honor your commitment?**  
 04 13 48PM 12 **A. Yes.**  
 04 13 49PM 13 **Q. Did Greg come back in?**  
 04 13 53PM 14 **A. He did. He may have been out for a full**  
 04 13 58PM 15 **round. Again, that part's a little blurry. And I**  
 04 14 02PM 16 **say that because Greg was -- to be honorable, I**  
 04 14 11PM 17 **heard Mr. Ray say that Greg was going to -- would**  
 04 14 14PM 18 **need to stay an extra round to be honorable about**  
 04 14 17PM 19 **honoring his commitment about staying all the**  
 04 14 20PM 20 **rounds.**  
 04 14 20PM 21 **Q. When did you hear the defendant stay that**  
 04 14 20PM 22 **to Greg?**  
 04 14 20PM 23 **A. Before he came back in. I think it was**  
 04 14 20PM 24 **before he came back in.**  
 04 14 20PM 25 **Q. And then Greg came back in?**  
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04 14 21PM 1 **A. When Greg came back in.**  
 04 14 23PM 2 **Q. In between rounds did you observe whether**  
 04 14 28PM 3 **the defendant poured more water on the hot rocks**  
 04 14 30PM 4 **that were brought in?**  
 04 14 37PM 5 **A. I did not observe him ever pour water on**  
 04 14 40PM 6 **the rocks when the door was opened in between**  
 04 14 41PM 7 **rounds. No.**  
 04 14 45PM 8 **Q. And once the door -- the door was open**  
 04 14 47PM 9 **for a little bit between each round. Is that**  
 04 14 47PM 10 **right?**  
 04 14 48PM 11 **A. Yes.**  
 04 14 48PM 12 **Q. Do you recall how long?**  
 04 14 48PM 13 **A. No.**  
 04 14 52PM 14 **Q. And then once the door was closed, what**  
 04 14 55PM 15 **would Mr. Ray do with the water?**  
 04 14 59PM 16 **A. Once the door was closed and after the**  
 04 15 02PM 17 **new rocks -- additional rocks, the hot rocks, were**  
 04 15 05PM 18 **brought in, then he would pour the water on them.**  
 04 15 07PM 19 **The interesting thing -- you mentioned**  
 04 15 12PM 20 **the rounds. It seemed like when I was in there**  
 04 15 15PM 21 **during the round, it seemed like it took forever.**  
 04 15 18PM 22 **And when it was in between rounds, it seemed like**  
 04 15 21PM 23 **there wasn't any time at all. It seemed really**  
 04 15 21PM 24 **quick.**  
 04 15 21PM 25 **Q. Did you ever see the defendant do**  
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04 15 23PM 1 **anything with the water in the bucket other than**  
 04 15 26PM 2 **pour it on the rocks?**  
 04 15 27PM 3 **A. At one point -- and I don't remember what**  
 04 15 31PM 4 **round it is -- there was -- it seemed like that**  
 04 15 33PM 5 **there was a ladle of some sort in the bucket. And**  
 04 15 39PM 6 **he flicked it over toward the staff members that**  
 04 15 46PM 7 **were sitting to my left.**  
 04 15 48PM 8 **Q. Flicked water on them?**  
 04 15 50PM 9 **A. Correct.**  
 04 15 52PM 10 **Q. Did he flick water on the participants?**  
 04 15 54PM 11 **A. Well, after he did that, I remember**  
 04 15 58PM 12 **yelling out, hey, how about over here? And it**  
 04 15 59PM 13 **seems like he flicked it one more time over in the**  
 04 16 04PM 14 **direction of -- over toward his right and some of**  
 04 16 08PM 15 **the other participants. It seemed like -- I'm not**  
 04 16 11PM 16 **sure if he did that once or twice. But he was kind**  
 04 16 14PM 17 **of like a playful. Okay. Here you go. And**  
 04 16 18PM 18 **flicked a little bit toward them.**  
 04 16 20PM 19 **Q. Did you ever see Mr. Ray, the defendant,**  
 04 16 22PM 20 **put water on the other participants throughout the**  
 04 16 24PM 21 **sweat lodge?**  
 04 16 25PM 22 **A. No.**  
 04 16 25PM 23 **Q. Did you ever see him put water on**  
 04 16 27PM 24 **himself?**  
 04 16 28PM 25 **A. No.**  
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04 10 28PM 1 Q. Mr. Ray, at some point were you aware  
 04 16 43PM 2 that there were people in trouble inside the sweat  
 04 16 48PM 3 lodge?  
 04 16 53PM 4 A. Yes.  
 04 16 58PM 5 Q. When was that?  
 04 17 03PM 6 A. I don't know what round it is. I mean,  
 04 17 08PM 7 really close to the beginning there were people  
 04 17 13PM 8 complaining, and the complaints got worse as it  
 04 17 18PM 9 moved along. And then at one point -- again, I  
 04 17 23PM 10 don't know whether it was during the first round or  
 04 17 28PM 11 second round, what round it was. But someone said  
 04 17 33PM 12 someone is passed out or the person next to me is  
 04 17 38PM 13 passed out.  
 04 17 43PM 14 Q. Do you remember what you thought when you  
 04 17 48PM 15 heard that?  
 04 17 53PM 16 A. I was really focusing on how I was  
 04 17 58PM 17 feeling around that time. So it was -- I just -- I  
 04 18 03PM 18 remember thinking wow. Someone is passed out  
 04 18 08PM 19 already and what's going to happen. What are they  
 04 18 13PM 20 going to do.  
 04 18 18PM 21 Q. And what did happen with them?  
 04 18 23PM 22 A. Nothing.  
 04 18 28PM 23 Q. How do you know that nothing happened to  
 04 18 33PM 24 the people that passed out?  
 04 18 38PM 25 A. Well, because James -- people kept saying  
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04 17 58PM 1 this person is passed out. We need to get them out  
 04 18 03PM 2 of here. And Mr. Ray said something -- again, I  
 04 18 08PM 3 don't know the exact words -- it was, we'll get to  
 04 18 13PM 4 them after the round is complete.  
 04 18 18PM 5 Q. Before you entered into the defendant's  
 04 18 23PM 6 sweat lodge, had he talked to you about the  
 04 18 28PM 7 possibility of passing out?  
 04 18 33PM 8 A. No. I don't ever recall anyone saying  
 04 18 38PM 9 that I might pass out.  
 04 18 43PM 10 Q. Did you think about doing something about  
 04 18 48PM 11 the people who were passed out that the defendant  
 04 18 53PM 12 had just said to leave alone?  
 04 18 58PM 13 A. I thought about it. We were packed in  
 04 19 03PM 14 there so tight you really couldn't move around very  
 04 19 08PM 15 much.  
 04 19 13PM 16 Q. Were you aware of anybody being taken  
 04 19 18PM 17 out?  
 04 19 23PM 18 A. Yes. There was several people taken out.  
 04 19 28PM 19 I do not know who they were or their genders. One  
 04 19 33PM 20 may have been female, another male. I don't know.  
 04 19 38PM 21 I watched them drag them out in front of me.  
 04 19 43PM 22 Q. Was that during rounds?  
 04 19 48PM 23 A. No. That was in between rounds after the  
 04 19 53PM 24 door had reopened.  
 04 19 58PM 25 Q. Were you ever aware of anybody focusing  
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04 19 13PM 1 on people who had passed out while a round was  
 04 19 18PM 2 going on?  
 04 19 23PM 3 A. No.  
 04 19 28PM 4 Q. Did you know someone named Lou Caci?  
 04 19 33PM 5 A. I did not know him as a friend. I'd  
 04 19 38PM 6 heard his name at other events and seen him.  
 04 19 43PM 7 Mr. Ray had introduced him at other events.  
 04 19 48PM 8 Q. Did you become aware of Lou inside the  
 04 19 53PM 9 sweat lodge at some point?  
 04 19 58PM 10 A. Yes.  
 04 20 03PM 11 Q. And how?  
 04 20 08PM 12 A. He was moving around. I'm not sure if he  
 04 20 13PM 13 was leaving or just moving around. And he stumbled  
 04 20 18PM 14 and fell into the rocks and appeared to burn  
 04 20 23PM 15 himself.  
 04 20 28PM 16 Q. How did you become aware of it?  
 04 20 33PM 17 A. It seemed like someone said Lou just fell  
 04 20 38PM 18 into the fire or someone just fell into the fire.  
 04 20 43PM 19 Q. Did you see or hear the defendant react  
 04 20 48PM 20 in any way to that?  
 04 20 53PM 21 A. I don't recall what the reaction was.  
 04 20 58PM 22 Q. Do you know if Lou got out?  
 04 21 03PM 23 A. I don't know that he got out right away.  
 04 21 08PM 24 I think it was still -- that he needed to wait  
 04 21 13PM 25 until the round was over. Again, that part is -- I  
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04 20 28PM 1 don't recall if he -- if it was -- as I recall, I  
 04 20 33PM 2 think it was still dark when he fell in. But  
 04 20 38PM 3 that's the best of my recollection.  
 04 20 43PM 4 Q. And do you recall somebody yelling about  
 04 20 48PM 5 having a heart attack?  
 04 20 53PM 6 A. Yes.  
 04 20 58PM 7 Q. How did you become aware of that?  
 04 21 03PM 8 A. He initially said that he was having  
 04 21 08PM 9 trouble. He couldn't breathe. Something to the  
 04 21 13PM 10 effect, I can't breathe. I can't breathe. And  
 04 21 18PM 11 then it seemed to escalate. And then he said, I  
 04 21 23PM 12 feel like I'm having a heart attack.  
 04 21 28PM 13 Q. Do you know where that man was when he  
 04 21 33PM 14 said that?  
 04 21 38PM 15 A. I don't know his specific location. It  
 04 21 43PM 16 seemed to me that he was toward my right. It was  
 04 21 48PM 17 so dark in there you really couldn't see.  
 04 21 53PM 18 Once the water had been put on the rocks,  
 04 21 58PM 19 it went -- it was really dark. I couldn't see. It  
 04 22 03PM 20 sounded like he was to my right, but I don't know  
 04 22 08PM 21 what position he was in or how far he was away.  
 04 22 13PM 22 Q. Did you ever see the defendant react to  
 04 22 18PM 23 the man who thought he was having a heart attack?  
 04 22 23PM 24 A. No.  
 04 22 28PM 25 Q. Did the rounds continue?  
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04 21 41PM 1 A. Yes.

04 21 42PM 2 Q. Did that surprise you?

04 21 43PM 3 A. Yes. I thought it was odd that he

04 21 44PM 4 wouldn't be taken care of right away.

04 21 45PM 5 Q. Did you ever hear Mr. Ray talk to people

04 21 46PM 6 who had left his sweat lodge?

04 21 47PM 7 A. Yes. The main person that I recall was

04 21 48PM 8 Greg Hartle, but it seemed like that anyone that

04 21 49PM 9 had gone out there was encouraged to come back in.

04 22 00PM 10 It's play full on, come back in and push through.

04 22 01PM 11 Q. By whom?

04 22 02PM 12 A. By Mr. Ray.

04 22 03PM 13 Q. Did you notice an increase in the heat in

04 22 04PM 14 the sweat lodge as the defendant's ceremony went

04 22 05PM 15 on?

04 22 06PM 16 A. Yes.

04 22 07PM 17 Q. Describe that for the jury.

04 22 08PM 18 A. Well, it simply got hotter. Again, I

04 22 09PM 19 don't recall the number of rocks that were

04 22 10PM 20 initially brought in in the first round. However,

04 22 11PM 21 in subsequent rounds it seemed that more rocks were

04 22 12PM 22 being brought in.

04 22 13PM 23 And, for example, if the first round

04 22 14PM 24 there was 8 rocks that were brought in and

04 22 15PM 25 subsequent rounds maybe there was 12 or 13. Again,

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04 22 56PM 1 I don't know the exact number, but I remember

04 22 57PM 2 noting that is, like, I was already uncomfortable

04 23 02PM 3 and it was hot. And more rocks were being brought

04 23 06PM 4 in than initially.

04 23 08PM 5 Q. At some point, sir, did you decide you

04 23 11PM 6 needed to get out?

04 23 12PM 7 A. Yes.

04 23 13PM 8 MS. DO: Objection, Your Honor. Leading

04 23 14PM 9 question.

04 23 15PM 10 THE COURT: Overruled.

04 23 16PM 11 You may answer that.

04 23 17PM 12 THE WITNESS: Yes.

04 23 18PM 13 Q. BY MS. POLK: Do you know about what

04 23 19PM 14 round that was?

04 23 20PM 15 A. I don't know. It seemed like it was near

04 23 21PM 16 the end. And --

04 23 22PM 17 Q. Near the end of what?

04 23 23PM 18 A. Near the end of the -- all of the rounds.

04 23 24PM 19 Q. What makes you believe it was toward the

04 23 25PM 20 end of all the rounds?

04 23 26PM 21 A. Initially -- it seemed like I was

04 23 27PM 22 counting rounds. Okay. Here's No. 1, and here's

04 23 28PM 23 No. 2, and here's No. 3.

04 23 29PM 24 It seemed like I was well into numbers at

04 23 30PM 25 that point.

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04 23 45PM 1 Q. You testified a few moments ago that at

04 23 46PM 2 some point you heard the defendant respond to

04 23 47PM 3 someone who called out about a person having passed

04 23 48PM 4 out, and you heard the defendant say leave them

04 23 49PM 5 until the round is over.

04 24 00PM 6 Are you able to recall how close in time

04 24 01PM 7 your hearing those words from the defendant about

04 24 02PM 8 leaving that person until the round was over -- how

04 24 03PM 9 close in time that was to your decision that you

04 24 04PM 10 needed to get out?

04 24 05PM 11 A. I couldn't estimate the amount of time.

04 24 06PM 12 It just seemed like having gone through that

04 24 07PM 13 experience, there was no real concept of time.

04 24 08PM 14 Q. What was happening to you mentally around

04 24 09PM 15 the time you decided to get out?

04 24 10PM 16 A. I felt myself getting weak and just felt

04 24 11PM 17 like that there was something wrong, something that

04 24 12PM 18 was really wrong physically.

04 24 13PM 19 Q. What did you do or say when you decided

04 24 14PM 20 you needed to get out?

04 24 15PM 21 A. I said, I got to get out of here. I got

04 24 16PM 22 to get out of here.

04 24 17PM 23 Q. Do you know if that was during a round or

04 24 18PM 24 when the door was open?

04 24 19PM 25 A. Definitely during a round.

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04 24 57PM 1 Q. And you said, I got to get out of here?

04 24 58PM 2 A. Yes.

04 24 59PM 3 Q. Did anybody respond?

04 25 00PM 4 A. There was -- I remember hearing, you're

04 25 01PM 5 more than that.

04 25 02PM 6 Q. Did you ever hear Mr. Ray respond when

04 25 03PM 7 you said, I need to get out of here?

04 25 04PM 8 A. No. I remember hearing, you're more than

04 25 05PM 9 that. You're more than that.

04 25 06PM 10 When people were complaining it was --

04 25 07PM 11 initially it was Mr. Ray was the one that really

04 25 08PM 12 started that phrase. He was the first one that

04 25 09PM 13 said, oh. You're more than that. And other people

04 25 10PM 14 joined in after -- oh. It's okay -- with

04 25 11PM 15 encouragement from the rest of the participants.

04 25 12PM 16 Q. You realized during a round you needed to

04 25 13PM 17 get out. You said you needed to get out?

04 25 14PM 18 A. Yes.

04 25 15PM 19 Q. Did you know you had to wait until the

04 25 16PM 20 round was over to get out?

04 25 17PM 21 MS. DO: Objection to the leading question,

04 25 18PM 22 Your Honor.

04 25 19PM 23 THE COURT: Sustained.

04 25 20PM 24 Q. BY MS. POLK: You said you needed to get

04 25 21PM 25 out. You knew it was during a round. What did you

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04 25 55PM 1 do?

04 25 55PM 2 **A. I started feeling my way out.**

04 25 58PM 3 **Q.** Were you going to get out even though the

04 26 00PM 4 round wasn't over?

04 26 04PM 5 **A. That was my goal.**

04 26 04PM 6 **Q.** Tell the jury what happened.

04 26 06PM 7 **A. The last thing I remember is feeling my**

04 26 11PM 8 **way and then just passing out. It goes blank from**

04 26 18PM 9 **that point.**

04 26 19PM 10 **That's one of the things that's tough for**

04 26 21PM 11 **me to get my head around. I don't know how long I**

04 26 24PM 12 **was in there roasting after that. I don't have any**

04 26 26PM 13 **recollection. The next thing I remember, I'm in**

04 26 31PM 14 **the hospital.**

04 26 34PM 15 **Q.** I'm going to clear this. Show the jury

04 26 40PM 16 where you were. What kind of voice did you use

04 26 45PM 17 when you said, I need to get out?

04 26 47PM 18 **A. I don't know. I don't know what -- how**

04 26 49PM 19 **I -- it could have been a squeaky little voice. It**

04 26 52PM 20 **could have been a roar. I have no idea.**

04 26 54PM 21 **Q.** Do you recall being able to move at all

04 26 57PM 22 when you said, I need to get out?

04 26 59PM 23 **A. Yes. I recall crawling and feeling. And**

04 27 04PM 24 **that's the last I remember.**

04 27 05PM 25 **Q.** Do you have any idea, Mr. Ray, how far

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04 27 08PM 1 you got toward the entrance before you have no more

04 27 11PM 2 memory?

04 27 11PM 3 **A. No. I don't even know that I was going**

04 27 15PM 4 **toward the entrance. I couldn't see.**

04 27 17PM 5 **Q.** Do you recall what you felt like as you

04 27 20PM 6 were trying to crawl out of there?

04 27 21PM 7 **A. I felt like I was in serious trouble.**

04 27 25PM 8 **Q.** And physically what was it that felt

04 27 28PM 9 serious trouble to you?

04 27 29PM 10 **A. That I couldn't breathe, that I was**

04 27 37PM 11 **really weak. There -- it's a sensation I've never**

04 27 42PM 12 **felt before. That's what -- it's hard to describe.**

04 27 48PM 13 **Q.** You told the jury your next memory is

04 27 51PM 14 waking up where?

04 27 52PM 15 **A. In the hospital.**

04 27 53PM 16 **Q.** Which hospital did you wake up in?

04 27 55PM 17 **A. I think it's Flagstaff Hospital.**

04 27 59PM 18 **Q.** Do you know how many days later it was

04 28 01PM 19 that you woke up?

04 28 02PM 20 **A. I don't know which day it was that I woke**

04 28 04PM 21 **up.**

04 28 06PM 22 **Q.** Do you have an idea?

04 28 07PM 23 **A. Maybe a couple of days later. I'm not**

04 28 10PM 24 **exactly sure.**

04 28 11PM 25 **Q.** What part of the hospital were you in

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04 28 13PM 1 when you woke up?

04 28 15PM 2 **A. I think it was intensive care.**

04 28 21PM 3 **Q.** Do you know how you got to the hospital?

04 28 23PM 4 **A. I've been told -- well, I was life**

04 28 27PM 5 **flighted to the hospital.**

04 28 28PM 6 **Q.** Did you have any memory of that?

04 28 29PM 7 **A. No.**

04 28 30PM 8 **Q.** Mr. Ray, why did you not leave that sweat

04 28 36PM 9 lodge sooner?

04 28 38PM 10 **A. I felt like I was doing okay and I felt**

04 28 41PM 11 **like I was pushing through my fear. So having been**

04 28 46PM 12 **a distance runner, like I said earlier, I've --**

04 28 50PM 13 **there's been points when I ran a marathon where I**

04 28 54PM 14 **kind of hit what I used to call the "wall," where I**

04 28 58PM 15 **thought oh, gosh. There's four miles to go, or**

04 29 00PM 16 **whatever the distance was. And I just felt like I**

04 29 03PM 17 **wanted to quit. And I didn't feel like I'd hit**

04 29 07PM 18 **that point.**

04 29 07PM 19 **Q.** Did you trust the defendant that you

04 29 09PM 20 would be safe in there?

04 29 10PM 21 **A. Yes.**

04 29 11PM 22 MS. DO: Objection. Leading, Your Honor.

04 29 12PM 23 THE COURT: Sustained.

04 29 17PM 24 **Q.** BY MS. POLK: What did you feel about

04 29 19PM 25 your personal safety in the defendant's sweat

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04 29 22PM 1 lodge?

04 29 22PM 2 **A. Well, part of the reason that I went in**

04 29 25PM 3 **there, knowing how uncomfortable I was having that**

04 29 31PM 4 **previous experience with it, is that I truly**

04 29 35PM 5 **trusted that I was in good hands, and that he**

04 29 40PM 6 **wouldn't let anything -- given my knowledge of how**

04 29 48PM 7 **much control he has over everything, he wouldn't**

04 29 50PM 8 **let me get hurt.**

04 29 52PM 9 **Q.** Had you seen some things inside the sweat

04 29 55PM 10 lodge before you passed out that caused you to

04 30 00PM 11 question that?

04 30 01PM 12 MS. DO: Objection. Leading, Your Honor.

04 30 02PM 13 THE COURT: Overruled.

04 30 03PM 14 You may answer that, if you can.

04 30 05PM 15 THE WITNESS: Yes. When people were getting

04 30 10PM 16 carried out, that concerned me. There is one other

04 30 35PM 17 big component of it too. I made a commitment to be

04 30 40PM 18 in there. I said I would go in there and I would

04 30 44PM 19 complete it. I didn't want to be a failure. It

04 30 49PM 20 was something that was important to me, that I push

04 30 52PM 21 my limits. And I want to have a better life.

04 30 56PM 22 **Q.** BY MS. POLK: Can you explain to the jury

04 30 58PM 23 why taking care of yourself inside that sweat lodge

04 31 02PM 24 and leaving would have been a failure.

04 31 04PM 25 **A. Well, because for me up to that point it**

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04 31 10PM **1 was that I felt -- that I did not feel that I was**  
 04 31 15PM **2 in trouble. And when, as I said earlier, running a**  
 04 31 19PM **3 marathon there was times that I didn't complete it.**  
 04 31 24PM **4 And so I didn't push through like I could have.**  
 04 31 34PM **5 Q. When you were inside the sweat lodge,**  
**6 were you sitting up?**  
 04 31 35PM **7 A. Yes. Most of the time I was sitting up.**  
 04 31 38PM **8 There was one point when I -- when it was getting**  
 04 31 44PM **9 hotter and hotter and the door closed and I -- and**  
 04 31 50PM **10 he went toward the fire or the rocks with the**  
 04 31 54PM **11 water.**  
 04 31 54PM **12 I remember thinking oh, gosh. Here we**  
 04 31 57PM **13 go. And I kneeled down to put my face close to the**  
 04 32 02PM **14 ground to avoid as much of the heat as possible.**  
 04 32 08PM **15 Q. And what position were you in when you**  
 04 32 11PM **16 kneeled down to put your face to the ground?**  
 04 32 13PM **17 A. I think I went toward my side. It was**  
 04 32 17PM **18 really crowded; so you couldn't move around very**  
 04 32 20PM **19 much. But I think that I went down toward my side.**  
 04 32 22PM **20 I put my head sideways down as close to the ground**  
 04 32 26PM **21 as I could.**  
 04 32 27PM **22 Q. And in your position, Mr. Ray, in the**  
 04 32 28PM **23 sweat lodge, when the door was opened could you**  
 04 32 32PM **24 ever feel any fresh air?**  
 04 32 33PM **25 A. I didn't feel a gush of fresh air. It**  
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04 32 37PM **1 seemed like it was just as hot. And it seemed like**  
 04 32 42PM **2 it was just a moment before the new rocks started**  
 04 32 46PM **3 coming in.**  
 04 32 47PM **4 Q. Did you notice any difference in heat**  
 04 32 49PM **5 between the time you were sitting up and the time**  
 04 32 51PM **6 you put your head to the ground?**  
 04 32 53PM **7 A. Yes. It was much cooler closer to the**  
 04 32 56PM **8 ground than it was sitting up.**  
 04 32 58PM **9 Q. And how about in terms of humidity? Did**  
 04 33 01PM **10 you notice any difference?**  
 04 33 02PM **11 A. It was extremely humid. I don't think**  
 04 33 06PM **12 I've ever sweat that much in my life before.**  
 04 33 10PM **13 Q. When you had your head closer to the**  
 04 33 12PM **14 ground, did you notice any difference in the**  
 04 33 14PM **15 humidity?**  
 04 33 16PM **16 A. It seemed like it was a better**  
 04 33 21PM **17 environment closer to the floor. Although, it was**  
 04 33 24PM **18 wet. It was like I was sitting or crouching in**  
 04 33 30PM **19 almost a puddle of mud it was so wet.**  
 04 33 34PM **20 Q. Who controlled the length of the rounds**  
 04 33 38PM **21 in Mr. Ray's sweat lodge?**  
 04 33 38PM **22 A. Mr. Ray did.**  
 04 33 38PM **23 Q. Who controlled the number of rounds?**  
 04 33 41PM **24 A. Mr. Ray did.**  
 04 33 42PM **25 Q. Who controlled how long the door was open**  
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04 33 44PM **1 in between rounds?**  
 04 33 46PM **2 A. Mr. Ray did.**  
 04 33 47PM **3 Q. Who controlled the amount of water that**  
 04 33 49PM **4 was going on the rocks?**  
 04 33 50PM **5 A. Mr. Ray did.**  
 04 33 51PM **6 Q. And who controlled how many rocks were**  
 04 33 53PM **7 coming in for each round?**  
 04 33 55PM **8 A. Mr. Ray did.**  
 04 33 57PM **9 Q. Were you allowed to bring your water**  
 04 34 00PM **10 bottles into the sweat lodge?**  
 04 34 01PM **11 A. No. There was a table. There was a**  
 04 34 04PM **12 little tent that was set up outside, and we were to**  
 04 34 07PM **13 leave our water bottles on the table that was**  
 04 34 09PM **14 inside the tent.**  
 04 34 12PM **15 Q. And did you ever notice any smoke from**  
 04 34 15PM **16 the campfire that you testified about earlier, any**  
 04 34 17PM **17 of that smoke drifting into the sweat lodge?**  
 04 34 20PM **18 A. No.**  
 04 34 29PM **19 Q. You've talked about your experience as a**  
 04 34 32PM **20 marathoner?**  
 04 34 34PM **21 A. Yes. I was a distance runner in high**  
 04 34 37PM **22 school, and running was a passion.**  
 04 34 39PM **23 Q. And did you compete in high school**  
 04 34 43PM **24 competitions?**  
 04 34 44PM **25 A. Yes.**  
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04 34 44PM **1 Q. Have you also competed in posthigh school**  
 04 34 47PM **2 events?**  
 04 34 47PM **3 A. Yes. I did several events after high**  
 04 34 50PM **4 school. I did at least two marathons and a**  
 04 34 55PM **5 triathlon.**  
 04 34 58PM **6 Q. The various events that you competed in**  
 04 35 00PM **7 in high school, were there safety measures in place**  
 04 35 03PM **8 to take care of the competitors?**  
 04 35 05PM **9 A. Yes.**  
 04 35 06PM **10 MS. DO: Objection. Relevance, Your Honor.**  
 04 35 07PM **11 THE COURT: Sustained.**  
 04 35 15PM **12 Q. BY MS. POLK: You said that you heard**  
 04 35 17PM **13 before you passed out -- you heard the defendant**  
 04 35 20PM **14 say leave the people until the round is over. Do**  
 04 35 25PM **15 you recall that?**  
 04 35 25PM **16 MS. DO: Objection. Mischaracterizes the**  
 04 35 27PM **17 testimony.**  
 04 35 31PM **18 THE COURT: If the witness can answer that**  
 04 35 37PM **19 with the characterization.**  
 04 35 40PM **20 THE WITNESS: Could you ask the question**  
 04 35 43PM **21 again?**  
 04 35 44PM **22 Q. BY MS. POLK: What did you hear the**  
 04 35 46PM **23 defendant say in the sweat lodge when he was told**  
 04 35 48PM **24 people had passed out?**  
 04 35 49PM **25 A. That they would be taken care of after**  
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04 35 52PM 1 the round was over.

04 35 54PM 2 Q. Did you ever see the defendant take care

04 35 56PM 3 of anybody after the round was over?

04 35 58PM 4 A. Not the defendant himself. No.

04 36 00PM 5 Q. Who did you see take care of people?

04 36 03PM 6 A. There was one of the Dream Teamers named

04 36 06PM 7 Aaron. And he -- he helped drag at least one or

04 36 14PM 8 two of the people out. It seemed like he did it a

04 36 19PM 9 couple of times.

04 36 20PM 10 Q. Do you know if the Dream Teamers or the

04 36 24PM 11 defendant, in fact, took care of everybody inside

04 36 27PM 12 the sweat lodge who had passed out when the round

04 36 30PM 13 was over?

04 36 31PM 14 A. I don't know -- all I recall is that

04 36 35PM 15 there was someone passed out, and Aaron came in and

04 36 39PM 16 dragged them out.

04 36 40PM 17 And aside from that, there was no other

04 36 45PM 18 that I could tell -- that any other assistance

04 36 48PM 19 offered. And I don't -- there may or may not have

04 36 54PM 20 been other people passed out. I don't know. There

04 36 57PM 21 was no other aid given to any of the participants

04 37 00PM 22 that I can recall.

04 37 01PM 23 Q. And after you saw the one person dragged

04 37 03PM 24 out by Aaron, did you ever see Mr. Ray go check on

04 37 07PM 25 the person who had been dragged out?

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04 37 09PM 1 A. No.

04 37 09PM 2 Q. Did you ever see Mr. Ray stop the

04 37 13PM 3 ceremony because people had passed out?

04 37 18PM 4 A. No.

04 37 19PM 5 Q. Do you have lingering effects today from

04 37 22PM 6 your experience in the defendant's sweat lodge?

04 37 24PM 7 A. Yes.

04 37 25PM 8 Q. Can you describe those for the jury.

04 37 26PM 9 A. I have virtually no sense of taste or

04 37 31PM 10 smell. I have ringing in my ears that comes and

04 37 41PM 11 goes. Sometimes it's really loud. I have

04 37 45PM 12 headaches, trouble sleeping. There is days -- I

04 37 51PM 13 have good days and bad days with my thinking.

04 37 55PM 14 There's times when I can't think of

04 37 57PM 15 words, real simple words. Sometimes I have trouble

04 38 02PM 16 seeing, recognizing people that I know.

04 38 08PM 17 Visiting -- I visited some friends in San Diego,

04 38 11PM 18 and I couldn't -- until they spoke I didn't

04 38 16PM 19 recognize them. When they spoke, I recognized

04 38 19PM 20 their voice.

04 38 21PM 21 Q. Were toxicology tests done on you?

04 38 22PM 22 A. Yes.

04 38 25PM 23 Q. And what's the result?

04 38 26PM 24 A. Negative.

04 38 29PM 25 Q. Have you been in good health your life

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04 38 31PM 1 prior to the sweat lodge?

04 38 32PM 2 A. Yes.

04 38 33PM 3 Q. And have you been an athlete most of your

04 38 35PM 4 life?

04 38 35PM 5 A. Yes.

04 38 39PM 6 Q. Have you lost weight since Mr. Ray's, the

04 38 42PM 7 defendant's, sweat lodge?

04 38 43PM 8 A. Yes.

04 38 43PM 9 Q. As a result of the lingering effects

04 38 45PM 10 you've spoken about?

04 38 46PM 11 A. Yes. It's fluctuated kind of up and down

04 38 52PM 12 depending on what was happening in my life.

04 38 59PM 13 Q. You talked about that sweat lodge from

04 39 02PM 14 several years ago that you had done and didn't

04 39 05PM 15 particularly like. Was there a difference between

04 39 07PM 16 that sweat lodge and the defendant's sweat lodge?

04 39 09PM 17 A. The difference -- the main difference was

04 39 13PM 18 that I was allowed -- one of them was that the

04 39 20PM 19 ceremonial part was different. The one that I did

04 39 23PM 20 before was you went in and you had intention.

04 39 30PM 21 There was less chanting. It was more about looking

04 39 35PM 22 inside yourself and being in a place of healing --

04 39 41PM 23 is how it was described to me.

04 39 43PM 24 Q. You're talking about the prior one?

04 39 44PM 25 A. The prior one. The main difference was

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04 39 46PM 1 that I was uncomfortable and I was able to leave.

04 39 51PM 2 I just said, I'm out of here. They were, like,

04 39 57PM 3 fine. That's okay.

04 39 58PM 4 Q. You could leave at any time during the

04 40 00PM 5 prior sweat lodge you did?

04 40 02PM 6 A. Yes.

04 40 02PM 7 Q. Even if it was between rounds?

04 40 05PM 8 A. Yes.

04 40 06PM 9 Q. Or even if it was during a round, I mean?

04 40 08PM 10 A. Yes. In that one it wasn't structured

04 40 11PM 11 into rounds. It was set up and then the rocks were

04 40 18PM 12 brought in and it was put on. It was -- it was set

04 40 24PM 13 up so everyone to stay in there as long as they

04 40 27PM 14 wanted to. Some people stayed in for a long time.

04 40 33PM 15 Others left.

04 40 36PM 16 Q. Before you did the defendant's sweat

04 40 39PM 17 lodge, did he ever provide you with any information

04 40 42PM 18 about his prior sweat lodges?

04 40 44PM 19 A. No.

04 40 44PM 20 MS. DO: Objection, Your Honor. Relevance.

04 40 48PM 21 THE COURT: Overruled.

04 40 53PM 22 Q. BY MS. POLK: Did the defendant prepare

04 40 55PM 23 you emotionally for his sweat lodge?

04 40 58PM 24 A. I don't know what that means.

04 41 04PM 25 Q. Did he spend time explaining to you the

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04 41 08PM 1 hazards and the need to look out for your physical  
04 41 12PM 2 well being?  
04 41 15PM 3 MS. DO: Objection, Your Honor. Leading.  
04 41 20PM 4 THE COURT: Sustained.  
04 41 27PM 5 Q. BY MS. POLK: Did the defendant ever  
04 41 30PM 6 provide you with any safety precautions or safety  
04 41 33PM 7 measures to follow with respect to this sweat lodge  
04 41 33PM 8 event?

04 41 33PM 9 A. No. Not that I can recall.

04 41 37PM 10 Q. Were you ever directed on how to take  
04 41 40PM 11 care of one another inside the sweat lodge by the  
04 41 43PM 12 defendant?

04 41 43PM 13 A. No.

04 41 48PM 14 Q. Did you have an altered experience?

04 41 50PM 15 A. There may have been a point where I was  
04 42 09PM 16 going down toward the end where I was kind of --  
04 42 13PM 17 seemed like I was becoming much more tunnel vision  
04 42 18PM 18 about what was going on around me. I was less  
04 42 20PM 19 aware of the stuff that was going on around me. It  
04 42 27PM 20 was more tunnel vision about myself.

04 42 32PM 21 Q. Do you know what was causing that?

04 42 34PM 22 A. No.

04 42 38PM 23 Q. Were you led to believe by the defendant  
04 42 41PM 24 that an altered experience was a good thing?

04 42 45PM 25 MS. DO: Objection. Leading.

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04 42 46PM 1 THE COURT: Sustained.

04 43 08PM 2 Q. BY MS. POLK: What do you recall about  
04 43 08PM 3 the defendant telling you about altered  
04 43 11PM 4 experiences?

04 43 13PM 5 A. What I recall is when you have a  
04 43 18PM 6 mind-altering experience -- a mind-altering  
04 43 22PM 7 experience, it provides a way for you to expand  
04 43 26PM 8 your consciousness.

04 44 01PM 9 Q. I'm going to play for you a clip from  
04 44 04PM 10 Exhibit 734. And I'm going to play to you a clip  
04 44 08PM 11 that's labeled 24. It's already in evidence, and I  
04 44 11PM 12 have a question for you.

04 44 11PM 13 (Exhibit 734 played.)

04 45 09PM 14 Q. BY MS. POLK: Did the defendant ever tell  
04 45 11PM 15 you how heat was going to cause the altered  
04 45 18PM 16 experience?

04 45 18PM 17 A. No. Not specifically that it's going to  
04 45 26PM 18 get hot in here and that's going to have you --  
04 45 31PM 19 that it's going to do to you. So it wasn't like  
04 45 35PM 20 "A" will cause "B." The environment will possibly  
04 45 40PM 21 give you a chance to experience an altered state.

04 45 49PM 22 Q. Did the defendant ever explain to you  
04 45 54PM 23 that his mechanism for causing an altered state was  
04 45 55PM 24 dangerous to your health?

04 45 55PM 25 A. No. I don't recall him ever saying that.

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04 46 11PM 1 Q. And was there ever a plan in place that  
04 46 14PM 2 you were made aware of to deal with people getting  
04 46 18PM 3 sick in the defendant's sweat lodge?

04 46 19PM 4 A. No.

04 46 31PM 5 Q. You talked about the tunnel vision that  
04 46 34PM 6 you were experiencing shortly before you passed  
04 46 38PM 7 out. At that point were you paying attention to  
04 46 41PM 8 the other participants inside the defendant's sweat  
04 46 43PM 9 lodge?

04 46 43PM 10 A. In a sense, yes. There was a lot of --  
04 46 48PM 11 at that point I could tell there was a lot of chaos  
04 46 52PM 12 going on. It was closer to me than -- I don't  
04 47 05PM 13 think I would have known what was going on on the  
04 47 07PM 14 other side of the structure. I could sense there  
04 47 08PM 15 was chaos going on -- was closer to where I was  
04 47 12PM 16 located at in the structure.

04 47 15PM 17 Q. And in terms of what people were saying  
04 47 17PM 18 or the defendant was saying, did your hat you  
04 47 20PM 19 described as tunnel vision affect your ability to  
04 47 23PM 20 hear or perceive?

04 47 27PM 21 A. I could still tell that there was people  
04 47 30PM 22 that were -- seemed to be scared and that were  
04 47 34PM 23 complaining. So I could still tell that there was  
04 47 40PM 24 concern that people had. And people seemed to be  
04 47 43PM 25 scared.

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04 47 44PM 1 MS. DO: I'm going to object to that, Your  
04 47 46PM 2 Honor. Calls for speculation.

04 47 48PM 3 THE COURT: Sustained.

04 47 50PM 4 MS. DO: Motion to strike, please?

04 47 51PM 5 THE COURT: Granted.

04 47 53PM 6 Q. BY MS. POLK: What was the last thing you  
04 47 55PM 7 remember in terms of how you felt? You talked  
04 47 57PM 8 about your fear, your desire to overcome it, your  
04 48 01PM 9 desire to accomplish this challenge. Before you  
04 48 03PM 10 passed out, what were you feeling? Do you recall?

04 48 05PM 11 A. I had a feeling I had to get out of there  
04 48 07PM 12 and get out of there quick.

04 48 10PM 13 MS. POLK: Thank you, sir.

04 48 11PM 14 Thank you, Judge.

04 48 11PM 15 THE COURT: Thank you, Ms. Polk.

04 48 13PM 16 Ladies and gentlemen, Mr. Ray, we will go  
04 48 15PM 17 ahead and take the evening recess at this time.

04 48 18PM 18 Members of the jury, remember the  
04 48 21PM 19 admonition, all aspects of it, of course.

04 48 23PM 20 Mr. Ray, I talked to you about the rule  
04 48 25PM 21 of exclusion of witnesses. I'm also asking that  
04 48 27PM 22 people who are witnesses avoid talking to third  
04 48 30PM 23 parties, perhaps someone who might not be a witness  
04 48 33PM 24 but might communicate with someone else.

04 48 35PM 25 I don't know who your circle of friends

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04 48 37PM 1 might be, but it's very important that your  
 04 48 39PM 2 testimony not be out to other witnesses in the  
 04 48 43PM 3 case. That's the basic idea of the rule of  
 04 48 45PM 4 exclusion. I'm asking that you do that.  
 04 48 46PM 5 Do you understand, sir?  
 04 48 48PM 6 THE WITNESS: Yes.  
 04 48 49PM 7 THE COURT: Thank you.  
 04 48 50PM 8 We will recess for the evening. I'll ask  
 04 48 52PM 9 the jury to return at 9:15.  
 04 48 55PM 10 Thank you.  
 11 (The proceedings concluded.)

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1 STATE OF ARIZONA )  
 2 COUNTY OF YAVAPAI ) ss REPORTER'S CERTIFICATE  
 3  
 4 I, Mina G. Hunt, do hereby certify that I  
 5 am a Certified Reporter within the State of Arizona  
 6 and Certified Shorthand Reporter in California.  
 7 I further certify that these proceedings  
 8 were taken in shorthand by me at the time and place  
 9 herein set forth, and were thereafter reduced to  
 10 typewritten form, and that the foregoing  
 11 constitutes a true and correct transcript.  
 12 I further certify that I am not related  
 13 to, employed by, nor of counsel for any of the  
 14 parties or attorneys herein, nor otherwise  
 15 interested in the result of the within action  
 16 In witness whereof, I have affixed my  
 17 signature this 8th day of January, 2012.  
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 MINA G HUNT, AZ CR No 50619  
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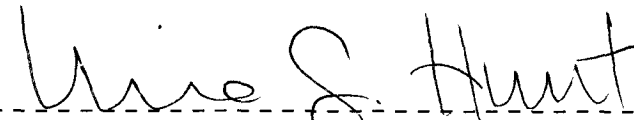
1 STATE OF ARIZONA       )  
2 COUNTY OF YAVAPAI     )       ss: REPORTER'S CERTIFICATE  
3

4               I, Mina G. Hunt, do hereby certify that I  
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6 and Certified Shorthand Reporter in California.

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14 parties or attorneys herein, nor otherwise  
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16              In witness whereof, I have affixed my  
17 signature this 8th day of January, 2012.  
18  
19  
20  
21

22                                 
23                               -----

24                               MINA G. HUNT, AZ CR No. 50619  
25                               CA CSR No. 8335